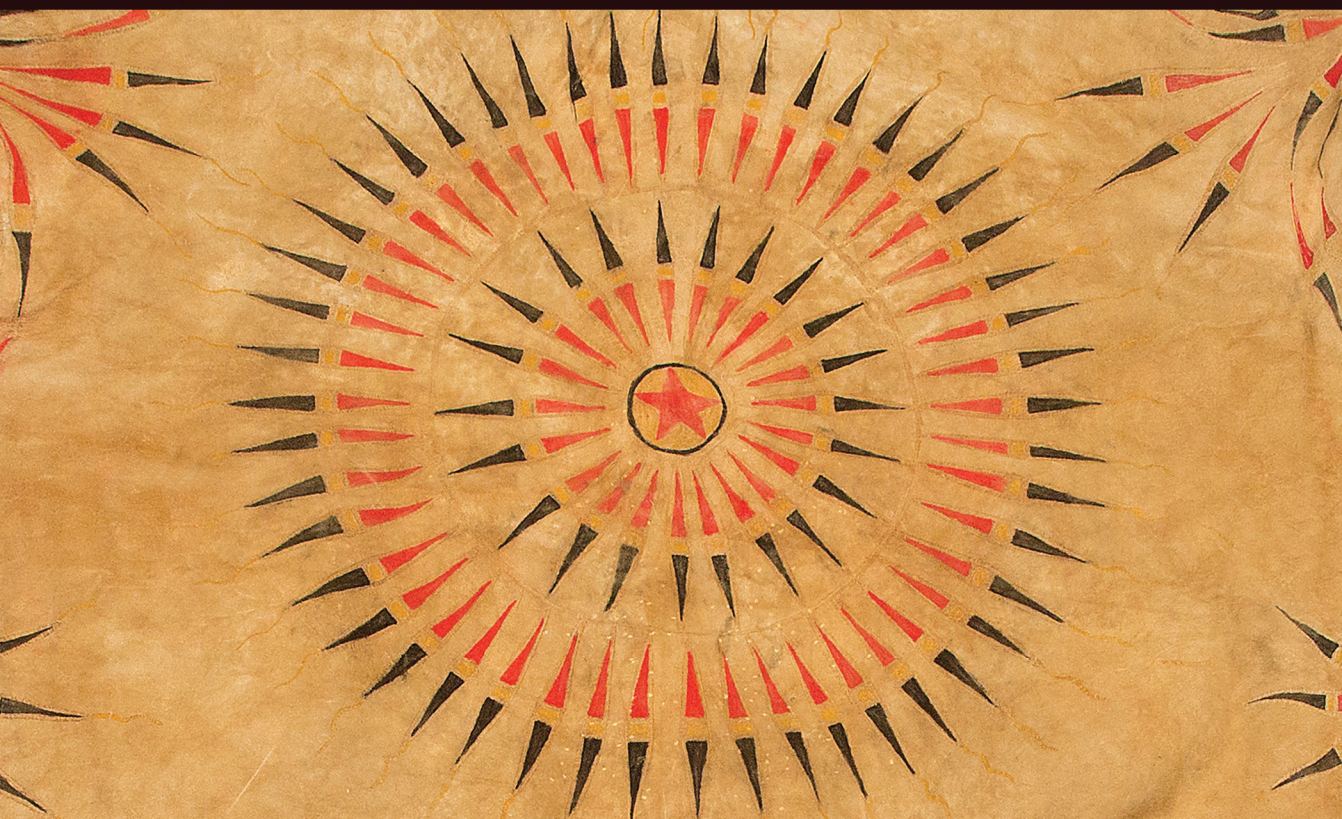


COLORIZING RESTORATIVE JUSTICE



VOICING OUR REALITIES

Edited by

Edward C Valandra,
Wanbli Wapháha Hokšíla

Foreword by

Justice Robert Yazzie

COVER IMAGE

Buffalo Hide Painting of a Black War Bonnet (1963)

Herman Red Elk, Ihánkthunwaŋna/Očhéthi Šakówiŋ Oyáte*

Sioux Indian Museum

Image courtesy of the U.S. Department of the Interior, Indian Arts and Crafts Board, Sioux Indian Museum

The image on the cover resonates with *Colorizing Restorative Justice* through at least five themes: Indigenous, circle, action, authenticity, and emergence.

Indigenous. Restorative justice and restorative practices are rooted in Indigenous ways worldwide. The authors consistently acknowledge the Indigenous foundations of their work and draw strength and guidance from these roots.

Circle. Circles are an integral part of Indigenous life in community. Over the past few decades, they have become foundational—in a Westernized version—to restorative thought, philosophy, and work. The authors are clearly devoted to Circles, which is why they are passionate about bringing a critical race lens to Circle practices.

Action. The image is of an eagle-feathered headdress spread out. The headdress is a symbol that the wearer's actions mirror values that people honor and respect. These authors are warriors for racial justice, social justice, and decolonization in the restorative justice movement. Through self-reflection, they seek to align their actions with their values, which gives their warrioring moral and spiritual force.

Authenticity. Again and again, the authors call for authentic dialogues, especially about race and colonization, in the restorative justice movement. Herman Red Elk chose to paint on a buffalo hide to bring back a traditional art that was interrupted when White settlers almost exterminated the buffalo to destroy my People's food supply—an act of genocide. Authentic dialogue means going to silences and voicing realities.

Emergence. In Očhéthi Šakówiŋ (Lakhóta, Dakhóta, and Nakhóta) thought and philosophy, this image also symbolizes emergence. By “voicing our realities,” the authors are emerging as the restorative force that they have always been. Through the justice warrioring of People of Color and Indigenous Peoples and their accomplices, the restorative justice movement holds the promise of emerging as a transformational force, overturning centuries of oppression, colonizing, and white body supremacy. It is time we emerge as who we are.

*Lakota Language Consortium orthography.

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Edward C Valandra
Wañbli Wapháha Hokšíla
EDITOR

Foreword by Justice Robert G. Yazzie



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Chapter 4

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Burn the Bridge

**Erica Littlewolf, Michelle Armster, and Christianne Paras,
with Lorraine Stutzman Amstutz**

A bridge has often been used as a metaphor to talk about how restorative justice (RJ) is a link from Aboriginal and Indigenous communities around the world who have lived out what restorative justice means. Yet it is false to claim that restorative justice in its current iteration is honoring the traditions of Indigenous people. We are not living out the values from those original traditions, and restorative justice does not truly honor the roots of Aboriginal/Indigenous in its current colonial form. Instead, restorative justice is rooted in a Western, white supremacist, cisgender, male-dominated system.

While a bridge has frequently been used as a metaphor to describe restorative justice, the bridge-metaphor framework has often been understood as the only way to reach a destination of healing and justice and to journey toward reconciled communities. This chapter reveals that a broader landscape exists—and has always existed—for the three individuals who were interviewed for this chapter. They discuss how their communities use their own wisdom to determine the meaning of healing and justice.

Where Are We in Our Work and What Are the Challenges?

Erica Littlewolf: I am a Northern Cheyenne woman and am biracial. I grew up on the Northern Cheyenne reservation in Montana. I have now lived off the reservation longer than I have lived on, mostly in urban areas with small Native American populations.

I am not sure when I “formally” began restorative justice work. I believe I was born into it as a way of life. I currently work on Indigenous justice issues within a Christian organization. The majority of my work has focused on the Doctrine of Discovery (DOD). I work toward educating mostly non-Indigenous Christian people on the Doctrine of Discovery. My work involves explaining the Christian roots of the DOD and how they were used to justify the

extermination and enslavement of Indigenous Peoples globally. For example, using scripture, the concept of *Terra nullius*, and referring to Indigenous Peoples as non-humans, the doctrine set the tone for US policy regarding Native Americans, which included taking land and killing Indigenous Peoples.

It is challenging to educate Christian people who are restorative-justice oriented about how their religion and current way of life exist at Indigenous Peoples' expense. Indeed, lack of individual ownership in systemic problems continues. I often hear people say, "I cannot be held accountable for what my ancestors did." Yet they continue to farm and live in excess, while Indige-

I find it is challenging to get dominant society to do work when they may not be able to see results in their lifetime.

nous Peoples live disconnected from their homelands and in poverty. I do not blatantly frame my work as "restorative justice," but it involves individual, familial, community, ancestral, and systemic restorative justice that will take

generations. I find it is challenging to get dominant society to do work when they may not be able to see results in their lifetime. Dominant society tends to want immediate satisfaction.

It is also challenging when non-Indigenous people recognize the harms of the DOD, take responsibility for the harm, but then immediately want to jump to reparations. The harm gets framed as the taking of land and the reparation immediately revolves around returning land. Some Indigenous communities are having this conversation, but not widely. I see the assertion of returning land both as a way in which non-Indigenous people can feel better about themselves and as a means of dominating the process. They are naming what needs to be done, instead of waiting for Indigenous people to name what is needed by them and their communities.

Another unanticipated challenge is with educated, anti-oppression individuals working in Indigenous communities. Such individuals tend to come to Indigenous communities with an idea of how things need to be done in order to implement a restorative justice process with an anti-oppression lens. They do fabulous listening processes, but they often question the results they gain from these processes. Because many Indigenous communities are at various levels of colonization and recovering from its effects, they are all different and have different needs. Often communities want things implemented in "colonial" ways. This colonial way is often the desired approach, because they know this is a step in the healing process; in contrast, implementing programs that are completely "decolonized" would cause more harm to the community than healing. Each Indigenous community is different. Doing what a community desires may seem "oppressive," but a community knows what is best for it in regards to healing and restorative justice, and outsiders do well to recognize and abide by the community's wishes. The important thing to remember is

that Indigenous communities are complex, and it is best to develop a tone of “learner” and “co-journeyer” rather than expert.

Michelle Armster: First, I am a woman of African descent born in the United States. Also I am a womanist and a follower of Jesus. All of these identities are important in order to be transparent about what shapes my restorative justice lens.

I started in this work in 1985 and was drawn to it through my profession as an insurance claims examiner. At that time, insurance claims and suits were being referred to mediation for resolution. Because I was a representative of an insurance company, the success of responding to conflict with mediation caught my attention. As a result, I decided to pursue education and training in the field. It was through not “restorative justice” but “mediation” that I also facilitated divorce cases, domestic violence cases, victim-offender cases, community disputes, and justice of the peace disputes. Later, when I was introduced to the concept of restorative justice, I became aware that there was a territorial distinction between restorative justice and conflict transformation. The difference seemed to be in the articulation of the concepts, philosophies, or understandings.

*As a practitioner of color, I noticed that if the person
who did harm was White, then that person was going
to have an opportunity to engage in a dialogue.
If the person who harmed was a Person of Color,
I hardly ever saw the same opportunity provided.*

However, I saw no difference in the practices. In both fields, the disparity in who were afforded the opportunity to engage with restorative justice or conflict transformation troubled me. When I was assigned more serious cases, I began to notice connections with police and courts that were problematic. As a practitioner of color, I noticed that if the person who did harm was White, then that person was going to have an opportunity to engage in a dialogue. If the person who harmed was a Person of Color, I hardly ever saw the same opportunity provided.

As a womanist restorative justice practitioner, I am guided by three principles:

- Seek wholeness for all: women, men, children, and the community.
- Spirituality and ethics are essential in order to dismantle the oppressions of race, gender, class, and sexuality.

- The people have the power and wisdom to determine their needs and what is good for them.

At their core, the principles of restorative justice are wonderfully aspirational and have the potential to be powerful, humanizing, and transformative. However, some of the ways that restorative justice is being practiced is disturbing. Unless the field acknowledges its complicity in perpetuating racist and sexist systems, it will never be a “safe” place for people and practitioners of color. Furthermore, unless the field speaks up and begins to address the historical, systemic, and continued harms from the extermination of Indigenous people and the enslavement of Africans, people and practitioners of color can never feel fully part of restorative justice. Lastly, as long as Whites continue to articulate, dictate, and appropriate restorative justice and restorative practices, the field will continue to be racist and sexist and not live up to its ideals.

Christianne Paras: I am a woman of Indigenous Filipino ancestry. A significant part of my journey and identity is also as an immigrant and a Canadian citizen—a settler of color living and working on the traditional unceded territories of Kwantlen, Musqueam, Tsleil-Waututh, Squamish, and Kwikwetlem, where I currently reside. *Maraming salamat.* I am deeply grateful for the land in which I live, work, and play.

The first time I sat in Circle among restorative justice practitioners to talk about “race,” I spoke to the experience of being labeled as the “face of diversity.”

The first time I sat in Circle among restorative justice practitioners to talk about “race,” I spoke to the experience of being labeled as the “face of diversity.”

First, I shared about how much time and effort I have given to deepening my understanding of restorative justice philosophy and practice over the years, and the gratitude I felt for being part of the movement—part of this community that held values such as compassion, inclusivity, and respect. Then, I spoke to

the impact of being called and treated as the “face of diversity”—an example of “tokenism”—which minimized the time and commitment I had given to restorative justice. I spoke about how this tokenism corroded my sense of belonging in the restorative justice community. The White restorative justice practitioners viewed referring to me in those terms as an acknowledgment, a compliment, an endearment. For me, it was a reminder that, as a Person of Color in a predominantly White field, I was alone and marginalized.

Additionally, the recognition the White RJ practitioners bestowed upon me as a person symbolizing diversity was not really about me but about them personally and about the organization for having a Person of Color working

The White restorative justice practitioners viewed referring to me in those terms as an acknowledgment, a compliment, an endearment. For me, it was a reminder that, as a Person of Color in a predominantly White field, I was alone and marginalized.

alongside them. It was a self-congratulatory statement about meeting some perceived requirement for being diverse and inclusive. After the Circle, a colleague approached me and said that I seem to have many “triggers around race that I needed to work on” and shared how they wished I had spoken up sooner so that they could have “exercised more awareness around my sensitivities.” This pivotal moment made clear the lack of cultural humility and safety in the practice for authentic, transformative conversations around race. The moment began my journey into exploring the landscape of restorative justice through colored lenses. I began to critically examine how values such as community, inclusion, and diversity were being interpreted in the practice of restorative justice in Canada. How was restorative practice plagued with “colorblindness”? How were White practitioners not really seeing the different experiences of marginalized groups, particularly communities of color, who frequently and continuously encounter various forms of exclusion and oppression?

While we need to have more conversations around restorative justice to respond to social justice issues, my journey as an immigrant, woman of color engaged in this work has raised for me more questions than answers. For example:

- What are the experiences of People of Color who work in restorative justice, and what challenges have come up for us in doing the work?
- How does the restorative justice community respond to the needs of People of Color in addressing experiences of exclusion and prejudice?
- How does the impact of colonization, power, and privilege manifest in the field of restorative justice?
- How does restorative justice perpetuate oppressive processes?
- How do we go about making restorative practice a truly diverse and vibrant field that upholds the values of inclusivity and equality?

If we do not recognize and understand the impact of colonization and systemic oppression as well as the issues of power and privilege, restorative justice will have neither the capacity nor the capability to address the racist, sexist, and classist injustices at the core of our oppressive social institutions.

What Is Justice?

An area of concern around restorative justice is how we define “justice.” Presently, definitions revolve around crime, conflict, and harm, yet these definitions fail to reflect the systemic issues that are often factors to crime and conflict. The harms that restorative justice processes address are focused on the chargeable criminal act and are considered resolved when addressed, which is often limited to the victim-offender binary. Dialogue is typically around the impact of the actions of the “offender”/person who commits harm on the “victim”/person who was harmed, situating the participants’ identities around the criminal event or conflict. Factors such as systemic issues and power relations as well as the impact on one’s sense of identity—whether it be race, gender, age, or class beyond the victim-offender binary—are often left unacknowledged and unaddressed.

For example, racially charged offenses—harms that should be identified as “hate crimes”—are limited or reduced to the chargeable criminal offense. This chargeable offense becomes the overriding focus, which means the “hate crime” context goes unrecognized and therefore is overlooked in the restorative justice response. For example, a group of White youth may be charged with repeatedly vandalizing the home of a student of color, but the discussion focuses on the vandalism, not on the racial terrorizing that was the motivation and impact of the harm. When this limited response happens, the lived experiences of disenfranchised and marginalized groups, particularly communities of color, are erased, made invisible, and ignored.

When this limited response happens, the lived experiences of disenfranchised and marginalized groups, particularly communities of color, are erased, made invisible, and ignored.

experiences of disenfranchised and marginalized groups, particularly communities of color, are erased, made invisible, and ignored. The individualistic approach to responding to harms lacks the understanding of justice that includes the broader, dynamic contexts in which we live and that continually evolve. The individualistic approach functions instead within a stagnant, singular reality, serving to perpetuate that reality by allowing it to go unnamed and unaddressed.

Current definitions of restorative justice, limited as they are to individual actions, exclude a response to the larger social [in]justice contexts, yet this narrow framing centers “whiteness.” That is, the social system built on white supremacy remains the central power precisely by remaining unnamed, unrecognized, and invisible, at least to Whites. Excluding social justice from the restorative justice process, then, centers the criminal “justice” that benefits Whites: whiteness, white power, and white privilege and the structural and systemic hierarchy that these create. Ruth Morris, Euro-Canadian, a leading advocate for prison abolition and transformative justice, stated, “Restorative

justice is not enough if it doesn't address fundamentally the issues of racist and classist"—and we would add patriarchal—"injustice which lies at the root of every one of our systems."¹

Assumptions/Questions

Restorative justice practices tend to operate on assumptions formed through a White, colonized, Western modality that is experienced as normative. These assumptions often silence, erase, and harm both those of us who are practitioners of color and the People of Color who participate in restorative processes. Here are a few of these assumptions:

- *Everyone is equal:* This assumption is problematic because it fails to recognize identity, intersectionality, and the different lived experiences of disenfranchised, marginalized groups. Instead, as Ragnhild Uthiem, White cultural anthropologist and professor of Liberal Studies, states, "The notion of a colorblind collective identity . . . is used to denote common experiences, understandings, and sense of belonging that members of society purportedly share but . . . fails to account for race-based inequalities and institutionalized injustice."² This assumption makes power and privilege in the intersections of race, gender, and class invisible. Embedded in the colorblind collective identity is the implication that everyone has the same needs and that those needs can be met in the same ways—without understanding and recognizing the disparities in equity and in having voice and choice in social institutions and processes. This leads to a false sense of equality in restorative processes: participants of color are not truly seen nor are their experiences acknowledged.
- *This is a safe space:* This assumes that restorative justice can create spaces "devoid of power," as if we could ignore the operation of social constructs among us, such as race, gender, and class, or ignore the impact of power and privilege on the feeling and experience of safety.³ The operation of whiteness, race, and gender can create potentially marginalizing power dynamics—both among participants and between participants and facilitators. Ignoring or being "blind" to the various aspects and intersections of identity can silence and further marginalize participants of color. Kimberly J. Cook, White professor of sociology and criminology, states that by not acknowledging these social dynamics and not attending to unequal power in processes, restorative justice potentially "sets up a smokescreen" that reconstructs privileges around identity such as race, gender, age, and class.⁴ For participants to truly feel a sense of safety, restorative

processes must acknowledge social and power dynamics, have open and honest conversations about what is present in the space, and inquire how—for the facilitator or as a group—these dynamics can be minimized.

- *Circle symbolizes community*: This assumes a singular, collective understanding of “community” and the values associated with it, disregarding how communities of color define and experience community. This assumption also disregards the tension that exists between the hegemonic mainstream narrative and counter-hegemonic cultural narratives.⁵ The notion of a colorblind collective narrative suggests a common experience of community and a specific understanding of belonging and connection in that community. Linwood H. Cousins, an African American author and professor of anthropology, states that embedded in the mainstream collective narrative of belonging is the “silencing, exclusion, and subjugation” of the realities of marginalized and disenfranchised groups.⁶ By uncritically adopting and endorsing a singular, Western definition of community, restorative justice risks perpetuating the erasure and structural oppression of People of Color.
- *Facilitators are impartial/neutral/detached*: This assumption proposes that every practitioner is able to facilitate any process, independent of their racial or cultural background, and without attachment to a particular worldview or social/political stance. For restorative justice practitioners to critically assess and remove any form of oppressive practice within their work, however, they must be able to examine how all aspects of their identity and experiences have shaped them as justice practitioners and the values and worldviews that guide their practice. The idea that facilitators must remain impartial/neutral/detached in their role contradicts the practice of self-reflection, which is an important aspect of facilitation. Susan Kamuti-Gaitho, RJ scholar of color in Canada, states, “If practitioners fail to do this, they may be unaware of their own and their client’s identity and how this can impact interactions, inadvertently causing them to minimize and ignore issues of race, gender, class, ability, and sexual orientation; fail to share power with clients; and link individual issues to structural inequalities.”⁷ By recognizing their own lived experiences and worldview, facilitators are better equipped to identify and reflect on assumptions and biases that affect their interactions. They can be more curious about and understanding toward participants who have different lived experiences and perspectives. They can also develop a capacity to respond to the social power dynamics that can manifest in the restorative process.

Case Study

A community restorative justice organization, P&P Consulting, was invited to come to an urban, predominantly African American school to lead a one-day workshop on restorative justice approaches and violence prevention with a group of students and teachers. The well-intentioned P&P Consulting sent an all-White facilitator team to the school. Within the first hour of the session, the students and teachers began asking questions: Who were the facilitators? What were they doing in the school? Who were they to talk about violence prevention in a setting where they would have had no lived experience? Why did they think it was okay for them to offer solutions to the violence happening in their school? The students and teachers were understandably upset and felt they were being disciplined and judged through this process. Not surprisingly, the White facilitators were asked to leave.

These assumptions and this case study raise questions that practitioners would be wise to ask, leading to critical inquiry and a critical analysis of the process. (Practitioner: a person actively engaged in an art, discipline, or profession.)

- How are the issues of race, class, and gender recognized (or not) within restorative justice?
- What additional resources do we need before engaging in dialogue around issues of race, class, and gender?
- Who is the community? What do we need to consider when we ask that question?
- What practices within restorative justice perpetuate colonization and oppression?
- How do we talk about good intentions and unintended consequences?
- How do power and privilege impact our processes?
- If we come from outside the community, how do our own assumptions and perceived roles contribute to further harm?
- How would you engage an inquiry process around issues of bias, power, and privilege?

The process starts with identifying the problem, issue, or concern and then asking:

- What are the impacts to you, to community?
- What would you want to see different?
- What is your personal and institutional power?
- Where are your points of access?
- What systemic things need to change?

- What are we willing to do individually?
- What should we be willing to do as a community?

Conclusion

As women of color in and around the restorative justice field, we know that our perspective challenges some, is dismissed by some, and is welcomed by others who deeply resonate with the struggle at the bridge. Our expectation is that the restorative justice field will admit the inadequacies and limitations of how it is currently defined and practiced, and will embrace the broadening and deepening that our worldviews provide. We also expect that the philosophy will begin to more fully align the restorative work with authentic and diverse cultural perspectives of justice.

We need to burn the bridge in order to see, honor, and recognize the rootedness of the land that the bridge is built on.

Perhaps we won't need to rebuild the bridge. We may need to enter the stream and plant a tree on the other side.

And this is just the beginning.

A Vision for Justice by Michelle Armster

Long, long time ago
Or was it last year
Or was it yesterday

A seed was planted
A seed

A seed was planted
A justice tree seed

But

How will it grow
This justice tree

When the ground is poisoned
With lies and broken treaties

How will it grow
When water spills the blood of African and Indigenous blood

How will it grow
When the stories of settlers is the sun that scorches the earth,
burns our backs and drinks our tears

And
We

Know

That Our stories are not the same
And we know
That justice is a verb

And WE know

That it is all about the babies
Taking care of the babies
The babies until the 7th generations
The babies we must love
In ourselves
In our homes
In our communities
In the streets

Bearing witness
Creating Brave spaces
Learning from the past to see the future

Sankofa

Telling our stories

And
Then
Maybe then

This moment becomes a movement

We would also like to thank Lorraine Stutzman Amstutz for her willingness and commitment to facilitate our dialogue and serve as a scribe. It is difficult to find a White ally, and she continues to prove herself as such. Her questions,

insights, and challenges helped us to more clearly articulate our thoughts and philosophy.

DISCUSSION QUESTIONS

1. What are the experiences of People of Color who work in restorative justice, and what challenges have come up for us in doing the work?
2. How does the restorative community respond to the needs of People of Color in addressing experiences of exclusion and prejudice?
3. How does the impact of colonization, power, and privilege manifest in the field of restorative justice?
4. How does restorative justice perpetuate oppressive processes?
5. How do we go about making restorative practice a truly diverse and vibrant field that upholds the values of inclusivity and equality?
6. How are the issues of race, class, and gender recognized (or not) within restorative justice?
7. What additional resources do we need before engaging in dialogue around issues of race, class, and gender?
8. Who is the community? What do we need to consider when we ask that question?
9. What practices within restorative justice perpetuate colonization and oppression?
10. How do we talk about good intentions and unintended consequences?
11. How do power and privilege impact our processes?
12. If we come from outside the community, how do our own assumptions and perceived roles contribute to further harm?

ACTIVITIES

Design an inquiry process around issues of bias, power, and privilege. For example, such a process might start with identifying the problem, issue, or concern and then posing questions such as the following:

1. What are the impacts to you, to your community?
2. What would you want to see different?
3. What is your personal and institutional power?
4. What leverage for change do you have but may not yet be using?
5. Where are your points of access?
6. What systemic things need to change?
7. What are we willing to do individually?
8. What should we be willing to do as a community?

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NOTES

1. Ruth Morris, "Transformative Justice Tackles Structural Inequality," in *Restorative Justice: Four Community Models* by the Saskatoon Community Mediation Services and the Mennonite Central Committee Ministry, a presentation paper (Saskatoon, Saskatchewan: MCC Canada Victim Offender Ministries, 1995).
2. See Ragnhild Utheim, "Restorative Justice, Reintegration, and Race: Reclaiming Collective Identity in the Postracial Era," *Anthropology and Education Quarterly* 45, no. 4 (2014): 355–72, DOI: 10.1111/aeq.12075.
3. See Oko O. Elechi, "Repairing Harm and Transforming African-American Communities Through Restorative Justice," *Community Safety Journal* 4, no. 2 (2005): 29–36.
4. See Kimberly J. Cook, "Doing Difference and Accountability in Restorative Justice Conferences," *Theoretical Criminology* 10, no. 1 (2006): 107–24.
5. See Utheim, "Restorative Justice, Reintegration, and Race."
6. Linwood H. Cousins, "It Ain't as Simple as It Seems: Risky Youths, Morality, and Service Markets in Schools," in *Childhood, Youth, and Social Work in Transformation: Implications for Policy and Practice*, ed. Lynn M. Nybell, Jeffrey J. Shook, and

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7. Susan Kamuti-Gaitho, “Diversity in Restorative Justice: A Research Practicum Report” (master’s thesis, University of Regina, 2017), <https://ourspace.uregina.ca/handle/10294/7809>.