

EXPERIENCES WITH THE BRAZILIAN RJ PILOT PROJECTS

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Over the last few years I have had the opportunity to ask people from many different social backgrounds, cultures and professions to visually represent our current justice system — whether applied in families, schools, businesses, neighborhood groups or court, prison or social service systems. How do we act when conflict arises in these communities?

The most common image I'm offered is that of a pyramid, in which the response to the conflict in question trickles down from on high to those who wait below.

This one-way flow of information — a monologue — is designed to stop conflict and provide justice. Attempts to stop conflict, rather than respond to it, underlie most of our current practice on promoting community well-being. In these practices those with power get to speak — most, longest or even exclusively. They offer the verdict, literally “the true word,” as that which cannot be responded to. It’s “And that’s the last I want to hear about this,” in Latin.



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Restorative practices are lauded for developing procedures and places where everybody present is given a voice. Participants rate RJ practices in part because they have a chance to express themselves. Telling one's story can be healing, transformative — and we can measure the benefits both personally, with reduced post-traumatic stress, and socially, in reduced acts of harm. We can reasonably speculate that greater social cohesion follows. Reflecting on what happens when we shift from models of domination based on fear of conflict, philosopher Emmanuel Levinas proposed a radically different way of understanding justice, defining it as “the right to speak.”

Looking more closely, with a practitioner's eye, we might ask, “Does speaking truly happen if no one is hearing?” I can speak and be misunderstood. I can speak and be ignored. And then there is no justice, no balance. When I look closely at many practices, including the form of conferencing with which I have been involved in Brazil over the last few years, I see the significance of the meeting, the coming together, of those impacted by a certain authored act. It is this coming together that makes visible the web of consequences that has affected their lives. When these people speak their truth, it will be not as an end in itself — if it were, each could stay at home and write a journal. They have come to speak to, and if possible, with each other. They have come to have recognized the validity of their experience. They have come to make meaning, or gain support in living with its absence. When I ask people to illustrate such an event they invariably draw a circle. Harrison Owen suggests this is because “a circle has no sides to take ... it's the fundamental geometry of open human communication.”

Communication is not something I can do alone. Only we can communicate. The circle image describes this. Far more than an arrangement of chairs, a circle is an open forum of shared power where each voice is not just articulated but heard, and not only heard, but has value. While such communication is a very specific act with many nuances for which we lack a full vocabulary, the action itself does have a name: dialogue.

Dialogue and the Brazilian Pilot projects

The study of dialogue as an area of philosophical and scientific research can be traced in recent Western thought to the work of Martin

Buber. From the 1920s Martin Buber began to describe the different modes of coexisting with others in terms of the quality of relationships, manifest through the presence or absence of dialogue. Buber described dialogue as “a conversation whose result is unknown.” It is unknown because it has not been predefined or imposed by a single source of power. Rather in dialogue power is shared.

Inspired in part by Buber’s work, 45 years ago Marshall Rosenberg began research and practical application into what has come to be known as Nonviolent Communication. Marshall’s work offers learnable, applicable entry points into the dialogue process, and as such throws new light into how human beings share meaning and transform relationships. Known principally for its contribution to the areas of education, interpersonal development and mediation, my experience suggests that Marshall’s work has much to offer the international RJ community.

In the 1990s I began to explore the application of Marshall’s work to the field of restorative justice. When I moved to Brazil I continued my investigations in the context of the country’s endemic urban conflict. In 2003 I invited Marshall and other experienced practitioners of Nonviolent Communication to a conference in Rio de Janeiro. This meeting was instrumental in initiating the first RJ pilot projects, coordinated by the Ministry of Justice’s Secretariat for Judicial Reform. Funded by the United Nations Development Program, these projects brought restorative practices into courts, schools, social services and prison systems, as well as community organizations, in a coordinated fashion for the first time. The results of my work with a small team integrating Nonviolent Communication, systemic change and restorative practices in schools and shantytowns in Rio de Janeiro led to me being asked to design the conference model and facilitator training used for two of the three projects: Porto Alegre and Sao Paulo. Both these projects focused on adolescents who had broken laws or norms in their communities. (The third project, in Brasilia, used victim-offender mediation with young adults in the court system.)

Building the Restorative Circles model

In my work in the ’90s, and later in Rio, I had learnt a basic tenet of facilitating. Rather than presume I know best what others need, I noticed things go better when I listen to how participants in a restorative process

express their experience of and hopes for the conflict in question. This involves listening both to the specific suggestions and requests they make and the underlying values that such suggestions express. I also learnt to do the same thing myself, tracking inwardly my reactions to what was taking place and the meaning these had for me.

At the same time I found that my and others' inexperience in being heard in this way often led to verbal and nonverbal expression which diminished the likelihood of transformative communication, and that a clear procedure could promote and safeguard the conditions for effective dialogue.

I sometimes suspected these two might be in opposition — either we discover what we want to do as we go, or we define a structure beforehand. In practice, however, I found they are wedded within one dynamic — sharing power between people rich in differences.

In developing the conference model I followed this same principle, establishing a “skeleton” process rather than a finished form. In this way key common elements could be freely adapted to local circumstances by those on the ground. The changes were present in the inherent differences between a school, a courthouse, a community center and a prison. But also between neighboring communities, or between age groups in the same school. In each context the ongoing challenge has been to find locally sensitive expressions of unifying principles.

The results have influenced the phrasing we use for this principle: “The more flexible we have been with the forms we use, the more restorative have been our results; the more faithful we have been to the principles we use, the more restorative have been our results.”

The other influence was Nonviolent Communication's focus on clear observations and process language. Facilitators reported pushing at themselves or participants when attempting to live up to fixed, abstract standards, diminishing the value of the conference for all involved. For example, the belief that “restorative practices must be nonpunitive” led to immobilizing facilitator doubts about the degree to which participant action plans were really voluntary. Noticing that the greater the degree of authorship each participant takes for their action plan, the more restorative the result, set facilitators up for an action perspective. They were now more likely to focus on concrete steps they could take

towards supporting participants to make genuine offers and requests of each other, than on factors beyond their control.

In one conference a mother challenged the veracity of an offer made by her own son to those he had held up at gunpoint. “You can believe me,” he told her, “because I’m not scared. I lied when I was in court before, because I was threatened. This time, there’s no need.” I’m still processing the learning stimulated by this comment, three years on. How can I increase the experience of safety for all those present in the circle? To what extent do horizontal distributions of power contribute to that climate of safety? How do such balanced decision-making relationships co-exist with different levels of life experience?

This focus also has the merit of bringing us constantly back to the question: just what is a restorative result? In other words, how do we want our communities and their foundational relationships to flourish?

We’ve used the word “circle” to describe this process, rather than “conference,” for its greater accessibility and ease of translation into Portuguese. It also reminds us of the timeless nature of the process some of us are now rediscovering, and its inherent simplicity. We see it as a community process, part of our cultural heritage. Maintaining the balance between clear forms relevant to social context and underlying principles of dialogue and shared ownership has been a key part of our learning.

Intentionally building a community framework for our restorative practice

One consequence of our work was that it partially cured our “system blindness.” When testing restorative practices in shantytowns and schools in Rio de Janeiro in the years before the pilot projects began, I noticed how often results generated in meetings failed to hold once the participants returned to their daily lives. In classrooms changes in relationships and personal conduct sometimes evaporated when students and teachers left the room. In spaces untouched by the principles of nonviolence that oriented the agreements they had made only moments before, within which these agreements made sense, they behaved differently. Sometimes tragically so.

The obvious became visible to me: Classrooms do not exist on their own. They exist within systemic contexts called schools (and

these within still larger systems...). In the same way, despite all the differences, the roofless unpainted brick rooms and lean-to shelters of scrap wood where agreements were made were not built in no-man's land, but located within the complex context of a dynamic community of landless squatters.

The presence in the Restorative Circle of the community — those indirectly impacted by what had taken place — took on a new light. More than supporters of a process that principally belonged to others, they became key participants. The conflict in question had indeed manifested between two sides, but it belonged to the greater community in which they lived. Any change in relationships and behavior would need their validation and monitoring. Any change in the conditions within which the act in question took place would need their active participation. They were, in this sense, not simply co-responsible for the results of the Circle, but also for the way in which the learning generated would feed back into community life. In a feat of mathematical acrobatics, this was so even as each participant remained 100 percent responsible for their own actions.

I think of it like a restaurant. When I enter freely, look at the menu and make my choice, I am responsible for it. At the same time those who wrote the menu share responsibility for the options from which I chose. Neither fact diminishes the other.

Marshall Rosenberg's practical research into the way in which we organize ourselves socially based on our thoughts about human agency was instrumental in revealing these dynamics. Of particular relevance was his suggestion that the actions of others do not cause our well-being, or pain, though they have a powerful capacity to stimulate such feelings. And that, once such stimulus is identified and distinguished from the idea of blame, a key impediment to the desire for mutual well-being is removed.

Seeing systemically — aware of our choices, the human, changeable menu from which we choose and the effects of our choices on ourselves and others — also created changes in the way we implemented the projects. In each community we sought to distinguish the systemic change being introduced from the practical day-to-day running of the conferences. We developed specific measures to support certain communities (particularly those in which relationships were

more stratified and established) develop and manage frameworks within which their restorative circles would be accessible, relevant and effective to their users.

In the courts we worked closely with justice workers and legal experts to understand the context within which the justice system operates. Thus we created, through agreements with as many of the affected parties as were willing to dialogue, a space in which the circular meeting of those impacted by crime was a logical response to the diminishing of community well-being and safety.

In schools we worked with the educational authorities, teachers, parents, students, police and others to create a response to conflict that functioned within the normal school day while at the same time clearly distinguishing the qualities of the conference meetings from the power dynamics and hierarchical relationships within the community.

In youth prisons we offered basic training to prison workers, administrative staff (including the state head of the youth prison service), guards, psychologists and inmates. Our focus was to support the institution in aligning its practice to its founding ethos, which promised a supportive climate of self-reflection and the adoption of new ways of relating to oneself and to society.

Caring for the systemic nature of the change being initiated gave authority to the process, as well as clarity and reassurance to the participants. In one of the first Circles we heard the stepfather of the adolescent who had held up a shop attendant repeat the promise he'd made to his kids long ago not to visit them if they went to prison. "But I'll do what I can to participate and take my responsibility — I went to the court hearing and I came to the Circle," he said.

Building a strong framework for the Circles also gave support and confidence to the facilitators, both those from institutional backgrounds and those from local communities. In every case they were doing something completely beyond their previous experience and often in direct contradiction to "common sense," habitual power relations (such as with inmate or student facilitators) or years of professional training and practice.

Overall, our initial experiences in coordinating projects over old institutional boundaries, connecting to whole communities and valuing internal congruence by seeking dialogue on common ground have

brought us significant learning and had increasing impact. We have a model which, over the last four years, has shown itself to be highly adaptable in a wide range of circumstances while producing an experience which participants tell us brings meaning, relief, understanding and change to their experience of violence and its aftermath. They tell us it does this by meeting their basic human needs for safety, dignity, active participation and justice. As one adolescent repeat offender told researchers, “As well as everything else that happened I found out I have needs. I didn’t know that until I heard myself saying them. So, I didn’t know before why I did what I did.”

We understand justice in the restorative context to be the balance between the needs and well-being of all those who make up a community. Our experience has been a practical investigation into justice as community well-being.