Why Restorative Justice?

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Harm, Hurt, Trauma

- Working with people who have been harmed or hurt or traumatized by others – sometimes by those they loved, admired or for whom they otherwise had regard,
- Sometimes by government policy and systems that renders them powerless and hopeless
- [think of the housing crisis, the financial crash, the lost lives by suicide and stress as a result of all of this, the victims of abuse in the Catholic Church, sporting organizations, schools and other systems – we could go on]....
Injustice

• As well as hurt and harm many of these people also feel a sense of injustice – this is not right – what this person or this system or this organization did to me was wrong.

• Much of the time in my therapeutic work I am dealing with hurt / harm and injustice – in their many forms and manifestations
Those who Perpetrated Harm

- Those who have perpetrated the hurt or harm from the smallest, sometimes unintended but nonetheless hurtful incidents to the most violent of events
- ... from individuals who have caused the harm to individuals to leadership of organizations and systems whose action or inaction has compounded the harm
So, I thought I would talk about what I have learned from this life of working at the cold face of hurt and injustice and where restorative justice comes into this.
1. Hurt, Trauma and Injustice is a fact of life and it is everywhere

- Veterans and their families deal with the painful aftermath of war and combat;
- Refugees deal with the aftermath of their escape and displacement;
- One in four children in Ireland have been sexually abused;
- Alcoholism is blind to class or gender, leaving suffering everywhere;
- One in four women have experienced domestic abuse and coercive control – sometimes men suffering with this control behaviour too.
I could go on….

• I’d say there is not a person in this room who has not suffered some form of hurt and injustice to a greater or lesser extent
• It is part of the human condition
• And
• ‘the body keeps the score’…
• It can leave body, mind and soul feeling its impact
• Trauma affects not only those who have suffered it but also those who surround them and, especially, those who love them.
• For many ... these trauma/experiences of hurt or injustice are **healed by the love of family or friends**

• – and for others – children and adults - they need to come to therapists, social workers, psychologists, counsellors ... for **therapy**

• The love of family and friends, the faith, a supportive employer, supportive friends – all are very helpful; but not enough.
Historical Hurt and Injustice

- If the hurt and injustice is an old one it can take tremendous energy to keep functioning

- while carrying the memory of terror or the hurt or injustice,

- sometimes accompanied by a sense of shame at being weak or vulnerable or of not being able to ‘get over it’ – ‘to move on’
Are therapeutic responses to pain, suffering, cruelty and injustice enough?

- We all need good medicine, doctors, psychiatrists, psychologists, therapists etc– but medicine alone and therapy alone can sometimes not cure the pain and suffering resulting from trauma, hurt and injustice

- the pills can help – maybe a lot – but ultimately, we need something else too.....

- Talking to ‘empty chairs’ / writing ‘symbolic letters’ while help - won’t quite bring the empowerment that some victims need

- This is a possible place for restorative justice
Background thought on my work on Restorative Justice

- Our capacity to destroy one another is matched by our capacity to heal one another.

- Restoring power, restoring relationships [if desired] and restoring community is central to restoring well-being.
• Language gives us the power to change ourselves and others by communicating our experiences, helping us to define what we know, and finding a common sense of meaning

• Communicating with the person who has perpetrated the harm – sometimes languaged as ‘confronting’ the person who harmed - can offer a means of human transformation
We have the ability to regulate our own physiology, including some of the so-called involuntary functions of the body and brain, through such basic activities as breathing, moving ...

Preparation and Time-out mechanisms in restorative justice can respond to the signals in body and brain.
We can change social conditions to create environments in which children and adults can feel safe and where they can thrive. Restorative justice can be part of this movement.
Restorative Justice: What is it and how does it work?

• It is a way of repairing harm and responding to injustice through various forms of what I will loosely call ‘dialogue’
  • face to face dialogue,
  • ‘mediation’ of some form of dialogue indirectly by means of letters or video
  • dialogue in circles or
  • Restorative conferences
  • Facilitated by a trained facilitator
So, what is it not?

• It is **not therapy** – although it can have therapeutic benefits

• It is **not a court of law** – although truth-telling and acknowledgement of harm is part of the process

• It is **not a place where people are blamed or ridiculed or disrespected** [irrespective of the wrongdoing]
• A place for the **telling of one’s experience**
• A place for the **asking and answering of questions**
• A place for **acknowledging harm**
• A place where the **miracle** of human acknowledgement, of meeting through **language** gives us the power to change ourselves and others by communicating our experiences.

• It is a place where our **capacity to heal** one another becomes possible.

• **Restoring power, restoring relationships** (if that is desirable), **restoring community**, and ultimately **restoring well-being** is ultimately possible in these facilitated human encounters.
To this extent RJ is radical

• Mainly because we try in Western world to marginalise, ostracise, alienate and keep apart the harmed and the harmers

• This process brings them together in direct or indirect dialogue
So how does it work?

- Always a voluntary process
- A respectful process for all parties
- Acknowledgement of harm / wrongdoing is prerequisite for participation in restorative justice
- Preparation is essential – preparation, preparation, preparation
- Safety is paramount – physical, psychological, procedural
- Training of facilitators must be suitable for the level of injustice and the crime – RJ training for responding to children who taunting each other / bullying in school different from that requires to facilitate serious sexual assault
Restorative Justice in Sexual Violence and Abuse Cases – with Adults

• Why Victims want RJ?

• Why Offenders willing to participate?

• Keenan, M. (2014). Sexual Trauma and Abuse: Restorative and Transformative Possibilities. Dublin: UCD. Available at: http://hdl.handle.net/10197/6247
Interviews: N=149

Oct 2012 - May 2014, 149 People interviewed

90 individual Interviews

10 group interviews

Interviews on average 2-3 hours [some less]
Who was Interviewed?

- 30 Victim Survivors
- 23 Offenders
- 2 Family members (offenders)
- 1 Family member victim
- 31 Therapists and Stakeholder
- 2 Mediators
- 9 Bishops and Religious
- 7 Judges
- 6 Politicians
- 5 Legal professionals
- 8 Gardaí (Police Officers)
- 12 Irish Prison Service Officers / Psychologists
- 4 Irish Probation Service
- 9 Print and Broadcast Media
Data Analysis

- Interviews Transcribed
- ATLAS ti to store data and code
- Multiple reading and re-reading of transcripts
- Integration with Literature
- Analysis: a combination of grounded theory methodology and thematic analysis
Finding: Gap in Justice Provision for Victims

- Criminal Justice System [Victim as Witness]
  - Evidential Threshold “Beyond Reasonable Doubt” high threshold for many cases

- Civil Justice System [Costly, Lengthy and Adversarial]
  - Evidential Threshold “On Balance of Probability”
Finding:

- Public Validation and Vindication – being believed by a legitimate authority figure is important

- There remains an ongoing need for another form of accountability and justice mechanism for victims of sexual crime
Consensus: RJ not as Alternative [with some exceptions] but Additional Justice Mechanism

Exception: Intra-familial and Young Offenders

Victims want RJ available for all who require it

Offenders would take part if requested to do so
Why Restorative Justice?

**Victim Survivors**
- Face Fears
- Questions / Statements
- Change the Memory Card
- Understand Why – Why sexual crime; Why me?
- Relational Disconnection from Offender
- Child and Adult Protection

**Offenders**
- Debts owed, Moral Obligation
- Opportunity for Victim’s to Confront, Ask questions
- Apology and Expression of Sorrow
- Speak Honestly – for the first time
- Hope for Victim to Move on with their Lives
Common for Both

- Family Reconciliation Work
- Healing for Victims, Offenders, Families and Communities
- As a Mechanism of Accountability
- Apology and Forgiveness – Individual and Subjective
Final Remarks

• A life without hope is no life at all
• People and communities can and do heal
• We need each other to be able to do this
• We are not only capable of hurting each other deeply; we are also capable of helping each other heal
• That is the message of restorative justice
• Let’s do it and change our lives and our communities