

1997

A Tale of Two Cities: Day Labor and Conflict Resolution for Communities in Crisis

Lela P. Love

Benjamin N. Cardozo School of Law, love@yu.edu

Cheryl McDonald

Follow this and additional works at: <https://larc.cardozo.yu.edu/faculty-articles>



Part of the [Law Commons](#)

Recommended Citation

Lela P. Love & Cheryl McDonald, *A Tale of Two Cities: Day Labor and Conflict Resolution for Communities in Crisis*, 4 *Dispute Resolution Magazine* 8 (1997).

Available at: <https://larc.cardozo.yu.edu/faculty-articles/283>

This Article is brought to you for free and open access by the Faculty at LARC @ Cardozo Law. It has been accepted for inclusion in Articles by an authorized administrator of LARC @ Cardozo Law. For more information, please contact christine.george@yu.edu, carissa.vogel@yu.edu.



From the Chair By Lela P. Love

The Section of Dispute Resolution launched its 16th year in September, working to promote quality dispute resolution processes that advance goals critical to society and to individuals. The Section is committed to mechanisms that preserve the rule of law while promoting processes that allow for resolution via understanding, healing, reparation, and restoration of individuals and community in conflict scenarios.

Restorative justice processes are explored in this issue of the magazine. A key goal of restorative justice processes—such as victim-offender mediation—is the restoration of the community's health and balance after a wrong. In contrast to a criminal system's exclusive focus on punishment that deters others, restorative justice initiatives highlight acknowledgment of wrongdoing, reparations to the victim and the community, and rehabilitative undertakings on the part of both the perpetrator and the community. In 2000, it was reported by the Department of Justice that there were more than 300 victim-offender mediation programs in place in the United States. That is a remarkable number, given that the first reported restorative justice mediation occurred in the United States in 1978.

Indeed, people around the world have been utilizing restorative justice principles since the beginnings of human history. The Chinese scholar Confucius believed that when disputes disrupted the community, restoring harmony, balance, and social relationships through community action were the ultimate goals. In traditional Navajo culture, the justice system involves a healing process, involving the victim, the perpetrator, the community, and a peacemaker, and is intended to restore good relationships and foster a healthy community environment.

As restorative justice processes continue to expand, the dispute resolution community must address new issues. If not carefully conducted, a victim-offender mediation can revictimize the victim. Cultural differences create barriers to understanding and reaching closure. The mediator or intervener must urge the parties to take into account what Scout learns from her father, the famous fictional lawyer Atticus Finch in *To Kill a Mockingbird*, that "you never really know a man until you stand in his shoes and walk around in them."

The Section of Dispute Resolution is committed to the growth and expansion of restorative justice processes. From the plight of wrongfully convicted exonerees who

might be made whole (or at least stronger) by a variety of restorative justice initiatives that states are slowly embracing to alternative sentencing schemes that promote offender rehabilitation, the promise of restorative justice is exciting. The ABA's Criminal Justice Section, together with the Dispute Resolution Section, has tackled a year-long Mediation in Criminal Matters Enterprise Project, funded by the ABA Board of Governors. This project has awarded minigrants to numerous jurisdictions engaged in restorative justice projects and is developing a how-to guide on restorative justice for use by courts around the United States, as well as publishing a guide to existing projects.

It is exciting that restorative justice processes are being used to respond to tough situations. After the attacks of September 11, 2001, and other incidents of terrorism, crimes committed against Arab-Americans, Muslims, and immigrants increased dramatically. Such crimes call, on the one hand, for a conventional law-and-order approach. On the other hand, though, initiatives to increase understanding and intercultural dialogue are critical. In Eugene, Oregon, after leaving voicemail death threats at a Muslim Community Center and Mosque on September 11, an offender, with the help of Community Mediation Services of Eugene, agreed to write a letter of apology to Muslims that was published in the local paper. The offender also attended lectures on Islam. On another front, after Hurricane Katrina, mediators and restorative justice practitioners through the Section of Dispute Resolution created a list serve to offer their services in that devastated area. The Section also developed a document chronicling various dispute resolution efforts in response to that crisis. From man-made to natural disasters, restorative justice responses are impactful.

More traditional mediation efforts in civil cases also can have important restorative elements. Personal injury, wrongful death, and employment cases (to name a few examples) are not only about money. Plaintiffs can gain closure from talking about their loss or injury and getting appropriate reparations and sometimes apologies. This potential benefit of mediation, however, is only preserved if parties participate in the process in a meaningful way.

The promise of the Section of Dispute Resolution is to develop many tools for society in its quest to be responsive to disputes and conflict. Sometimes conventional approaches suffice. Sometimes new methods are needed. Offering flexibility and quality, the stance is best described by the Outward Bound motto:

Be tough, yet gentle, humble yet bold,
Swayed always by beauty and truth. ♦

Lela P. Love, professor of law at Benjamin N. Cardozo School of Law where she directs the Kukin Program for Conflict Resolution, is a practicing mediator in New York City. She can be reached at love@yu.edu.