CHAPTER 37

Can Restorative Justice Transform Structural and Cultural Violence?

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This chapter will examine restorative justice in the context of religion and peacebuilding. I will first provide an exposition of restorative justice ethics, briefly explaining how and why its relational constitution enables it to comprise a theory of justice. I will then describe how that relational constitution permits it to overlap and work in tandem with a wide range of religious and philosophical traditions.

Numerous writings in religion and peacebuilding explore the roles that restorative justice has played in transitional justice contexts (Abu-Nimer 2001; Biggar 2003; De Gruchy 2002; Tutu 2000; Villa-Vicencio 2009, Walker 2006). Less examined are cases in which restorative justice aims to provide a sustainable alternative to destructive forms of retributive justice. In such contexts, justice institutions and systems generate substantial systemic injustices, what peace studies scholars describe as the inter-lacing of structural, cultural, and direct forms of violence (Springs 2015).

In part two of this chapter, I will make the case that intervening in and countering structural and cultural violence and systemic injustices is conceptually intrinsic to restorative justice. Moreover, this opens possibilities for restorative justice to present sustainable alternatives to and work to transform structural violence occurring in retributive systems. Restorative justice can uniquely intervene in these ways, I argue, because of the form of moral and spiritual association its relational constitution engenders. As a test case, I briefly examine its capacity to intervene in the justice system that perhaps leads the world in the levels of structural and cultural violence: the United States.

Restorative Justice in Transitional Contexts

Restorative justice is, at once, an ethical framework, a theory of justice, and a range of community-based and victim-centered justice, healing, and peacebuilding practices (e.g. peacemaking circles, victim-offender mediation, victim impact panels, and conferencing models of various sorts). This combination of theory and practice has informed a wide range of instances of 'transitional justice.' These frequently take forms of truth and reconciliation initiatives in the wake of violent conflict and human rights violations, e.g. truth and reconciliation commissions in South Africa, Chile, Argentina, among numerous others (Hayner 2001; Llewellyn and Philpott 2014). Such justice is 'transitional' in that, for a designated time, it serves the purpose of recovering from a period of stark political upheaval or passing through a period of reconstruction and reform after a period of violence.

South Africa's Truth and Reconciliation Commission, or TRC, (1995–2000), for example, employed restorative justice in a transitional mode (Llewellyn 2006; Truth and Reconciliation Commission 1998, Vol. 1, Chap 5., para. 80). Transition was necessary after the cessation of violence and human rights abuses after the deposing of the National Party's apartheid regime of racial segregation, repression, and violence against people of color (1948–1994). The TRC sought to facilitate nationally visible investigations, public acknowledgement of politically motivated violence and killing, and accountability for those harms.

Positioning restorative justice at the heart of the TRC aimed to avoid a situation in which the victorious side in the conflict simply vanquished its defeated opposition. It centered and amplified voices of victims while holding responsible parties accountable, with the aim of reintegrating them into (rather than banishing them from) that new socio-political formation (Tutu 2000, p. 47). The hope was to bring South African society to a point of recovery from which healing and reconciliation, civil rights, democratic practices, and even civic friendship might be cultivated and normalized.

Restorative justice values and practices infused the TRC. Where there was silence, the TRC investigated, made public, and dramatized the wrongs committed. Where there was denial, it required truth telling and information sharing. When possible, it facilitated confession and apology. Where there was persistent resentment and desire for retribution, the TRC enacted public rituals that might cathartically process rage and desire for revenge. In effect, it staged shared moments of remembrance, mourning, and solidarity (Goodman 2006). It sought, thereby, to open possibilities for political reconciliation. It promoted healing from harms suffered, accountability for harms committed, and possibilities for reparations.

Many concede that the TRC played a valuable role in promoting forms of accountability, reconciliation, and societal healing. However, in actually delivering tailored restitution to harmed parties, the TRC's results have been mixed. Moreover, its success in altering forms of structural violence inscribed and normalized during the apartheid regime and in deep colonial legacies (e.g. socio-economic inequalities and marginalization, de facto forms of racial segregation inscribed in geographic separation, and so forth) have been faint, at best, and at worst, outright failures (Omar 2020; Villa-Vicencio 2014). Its limited success in this raises a question for the restorative justice ethics at the heart of South Africa's implementation of transitional justice: Is it possible for restorative justice to redress and transform systemic injustice and structural and cultural violence? Answering this question requires understanding precisely how restorative justice constitutes a theory of justice.

The Ethics of Ubuntu

Restorative justice ethics and practices derive from global indigenous and aboriginal justice practices as well as from historic religious traditions (Hadley 2001; Ross 2009; Van Ness and Strong 2010, pp. 33–38). For example, restorative justice norms and practices at the heart of South Africa's TRC derived from a conception of 'relational personhood' at the heart of an indigenous African understanding of personhood, community, and jurisprudence. Those local terms invoked 'Ubuntu,' a word from the Nguni, South African language group translating, roughly, as, 'I am because we are.' As South African Anglican Archbishop, and Chairperson of the TRC, Desmond Tutu, glossed its meaning to '…my humanity is caught up, is inextricably bound up, in yours' (Louw 2008; Tutu 2000, pp. 31–32).

As an ethical framework, restorative justice derives from the basic insight that Ubuntu conveys, namely, that individual personhood is intrinsically and irreducibly (though not exhaustively) relational. On this understanding, individual persons, in all their distinctiveness and the particularities of individual agency, are, nonetheless, persons in and through their relationships with other persons. From the necessary relationships of absolute dependence and constant care of infancy and childhood, through the irreducible sociality of shared culture and language, to the physiological and psychological necessities of meaningful social interaction for basic mental health and well-being in individual adults, relationality is essential to human personhood.

Humans always have been, and are, in relationships. The question is will constitutive relationality be recognized as such and will those relationships be healthy, meet basic needs, and cultivate human flourishing? Or will that constitutive relationality be denied, passively neglected, or engaged destructively? Restorative justice is born of the insight that just human relationality empowers and facilitates human flourishing. Harm, destructive conflict, and violence (in all its forms) violate and damage the relationality in and through which human persons flourish. They tear the broader relational webs that constitute people's common life together.

Intrinsically relational personhood entails important normative implications. Relational personhood occurs in mutual recognition of each by the other as one like unto oneself and, thus, someone deserving of respect and care. From such an interrelational vantage point, each is an agent to whom the other is accountable and, thus, someone who ought never be treated arbitrarily. Each is and, thus, ought to be treated as a 'Thou' who is constitutively interrelated with myself as an 'I' rather than an 'It' or an object (Buber 1971). The normative implications of relational personhood prohibit circumstances in which one is (or some are) in a position to be unaccountable to and arbitrarily exert power over others, i.e. to dominate them. Such arbitrary relational forms occur of course. However, as such, they are degenerate and unjust versions of true human relationality. Mutual recognition of each by the other as a basic form of personhood means, further, that one's 'other' (one's 'Thou') is a relational partner upon whom one's own well-being is interdependent (Springs 2020, pp. 173–176). Thus, as Archbishop Tutu stated in explicating Ubuntu, whether we recognize and honor it or not, 'whatever dehumanizes you, dehumanizes me.'

Mutual recognition, reciprocal accountability, inclusive non-domination, and humanizing and respectful relations are all normative features of the account of relational personhood from which restorative justice derives. They will be constituent features of restorative justice practices to the degree that those practices are conceptualized and implemented in

ways consistent with and which embody this normative constitution. In the wake of harm, destructive conflict, and violence, the justice practices of restorative justice work to repair and heal damaged relationships and torn relational webs. Beyond such a responsive conceptualization, at their best, restorative justice practices proactively cultivate and sustain forms of community and broader societal institutions and practices that promote the forms of holistic flourishing that all persons are due.

What Puts the 'Justice' in Restorative Justice?

A theory of justice is an account of what persons owe to each other (what each is due) and, thus, how persons ought to and ought not to be treated. Such a theory accounts for why and how people ought to recognize each other as persons and citizens, demonstrate respect for each other, hold each other accountable for the claims and actions each undertakes. The relational account of personhood from which restorative justice derives entails that social harmony, compassion, and generosity in community are what persons owe to each other as persons. For these are the ways people treat each other, i.e. with mutual respect, compassion, and care. These forms of treatment cultivate relationships that promote the kinds of holistic human flourishing that all people are due (the ethical substance of restorative justice).

There is nothing abstract about such a conception of justice. It has a deep history, numerous expositors, and examples of implementation. As Martin Luther King, Jr, argued in the late days of the Civil Rights Movement, such an encompassing concept of justice '...is as concrete as having a good job, a good education, a decent house and a share of power' (King 1968, p. 95). Moreover, such a vision of justice entails ennobling and enabling respect and humanizing relations that people are due emotionally, psychologically, and spiritually, all of which are necessary for their flourishing (King 1968, pp. 115–120). Indeed, this holistic conception of what persons owe to each other (justice), and conversely how persons ought never be treated, promotes and inextricably participates in a shared or 'common' summum bonum (highest good), an intrinsically social and shared good (Hollenbach 2008, Chap 7; Thomas Aquinas, *Summa Theologiae* II-II, q. 58, art. 6).

To say that the 'highest good' toward which restorative justice aims is intrinsically shared and 'irreducibly social' (or a 'common good') is to say that it is actualized only in proportion to how broadly it is cultivated and made equally available to all. The more broadly a common good is manifest among people, the more its constituent elements increase. In other words, the just relationality of mutual recognition, mutual respect, reciprocal accountability, and treatment that promotes holistic flourishing, all constituent features of the common good around which restorative justice is organized, is not a 'zero-sum game.' It is not the case that acquisition of those goods by one person entails less (or none) for others. In fact, the opposite is the case.

Retributive theories of justice, by contrast, typically present a zero-sum equation of justice. Retribution sees harm or wrongdoing as creating a deficit or debt on one side. The deficit must be paid back in a common or similar currency to right the balance. Conceptions of justice as 'payback in kind' pervade human cultures and run deep in world history. One frequently cited example dates back to the early second millennium BCE in the ancient Mesopotamian Code of Hammurabi (1754 BCE), with its injunction to repay 'an eye for an

eye.' On such an account, the loss incurred by the harmed party is extracted in similar or identical currency from the one whose wrongdoing created the deficit. Retributivists typically conceptualize retribution through practices of punishment. One person caused pain and harm and, thus, must suffer pain and harm (Kant 1996).

Modern liberal societies concerned to protect basic rights prohibit the exact transposition of bodily harm for purposes of retributive punishment (e.g. eye = eye). Instead, one convicted of causing harm pays back through punishment in the form of separation and isolation through confinement, erasure of one's freedom, and constriction of one's basic status as citizen (e.g. relinquishing certain citizen rights). Such forms of punishment are nonetheless painful and typically administered in humiliating ways. Frequently, they are destructive of the persons, lives, families, and communities subject to them.

Punitive societies often accentuate retributive justice through harsh punishment. Harsh punishment seeks to deter future wrongdoing and/or to promote the general security of the society by demonstrating that vindication of the laws of the state is serious and exacting (less frequently, for rehabilitation). Nonetheless, within such a framing, meting out harsh punishment entails a minimization and diminishment for the one punished. This equation is 'zero-sum' in that repayment to one entails deduction and transfer from the other.

The intrinsically relational and shared character of the goods that constitute restorative justice, by contrast, promotes the opposite of a zero-sum equation. This means that addressing the needs of a party who has been harmed, and putting right the harm to the extent possible, simultaneously entails respect and restorative engagement of the responsible party (rather than an extraction and transfer of value in the currency of the incurred deficit). It does this, moreover, with reference to the context of community and the societal context more broadly. This requires encouraging and facilitating the responsible party's acceptance of responsibility. It requires opportunities for the person who caused harm to fulfill the reparative obligations of accountability. It requires opportunities for putting right the wrong that was done as much as possible (e.g. forms of repair of harms that are proportional and tailored specifically to the circumstances, the nature of the harm, and the needs of the harmed party, the community, and wrongdoer, which build up the flourishing and respect the personhood of all involved).

Restorative justice does not seek to 'restore' (i.e. recreate) status quo ante conditions. Rather, it views destructive conflict, harm, and violence as tears in webs of relationships that take forms of direct interpersonal connections and broader relational networks. It 'restores' in seeking to mend relationality that has been harmed or damaged by meeting basic needs, restoring accountability through truth-telling, repairing and healing harms, and up-building and sustaining healthy and nurturing relationships.

Accountability

Critics contend that certain forms of restorative justice promote impunity toward laws. In displacing the norm of retributive punishment, it risks 'letting wrongdoers off the hook.' In fact, restorative justice takes accountability and responsibility very seriously. For wrongdoers to participate in restorative justice processes, they must make themselves accountable and accept responsibility for the harm they have caused (Johnstone 2013). Moreover, some argue that restorative justice practices and values are not intrinsically at odds with certain forms of punishment (e.g. restorative punishment) (Brunk 2001; Duff 2002).

By contrast, justice systems that center upon retributive punishment often incentivize the denial of responsibility by those accused of causing harm or wrongdoing. In some cases, it may also incentivize false confession in the form of plea-bargaining, a practice in which a defendant pleads guilty to a lesser charge in exchange for a reduced punishment from the prosecutor. The retributive legal frame positions a defendant as an opponent to a prosecutor. This creates an adversarial orientation that motivates the diminishment of accountability. For a defendant to deny culpability and maintain innocence is strategically advantageous. Maintaining one's innocence at least forces prosecutors to prove (i.e. win) their case. As a result, the goal of a criminal trial often has little to do with establishing an accurate account of what occurred (e.g. through information sharing and truth-telling), much less attending to the needs of the victim. In a trial, the primary goal is to win. The return for winning is either ascription of guilt and punishment of the accused or their being declared 'not guilty.'

A prosecutor may or may not represent the needs and concerns of the harmed party, as a central purpose of criminal prosecution is vindication of the laws of the state and reinforcing the security of the society. Paradoxically, then, denial of responsibility and refusal of accountability end up promoted by retributive punishment within an adversarial legal framework. This constitutes a kind of impunity. It discourages or disincentivizes intentional efforts at truth telling and information sharing, making oneself accountable and accepting responsibility, listening and responding to the needs of those one has harmed, and putting right the wrongs that were caused with the victim's needs and specific community needs in view.

Forgiveness

Its relational conception of personhood and holistic account of human flourishing imbue restorative justice with an ethical and a spiritual dimension. These dimensions enable its practices to work within contexts of and in tandem with a wide range of religious traditions and their conceptions of justice, mercy, and peace (Hadley 2001). As an ethical framework and spiritual ethos, it marks out an area in which particular religious traditions and philosophical conceptions of personhood can achieve considerable degrees of overlapping consensus (Philpott 2012). Restorative justice is not necessarily religious however. Many thinkers and practitioners who do not identify with a particular religious tradition can find entrée through humanistic and philosophical paths into the relational conceptions of personhood from which restorative justice ethics derive (Llewellyn 2012; Nedelsky 2011; Sharpe 2013).

Because restorative justice often emerges from (or finds reinforcement in) particular religious traditions, some such versions may espouse forgiveness from religious and spiritual tradition-specific reasoning and orientation. Critics protest that restorative justice promotes forgiveness and, thus, pressures victims to embrace a practice and value that is specific to a religious tradition they may not espouse. On this account, in as far as restorative justice espouses reconciliation or the victim's forgiving the offender, it exemplifies the hazard of imposing religion-specific values upon practices of law and public justice. This is not necessarily the case.

For example, working explicitly within a Mennonite Christian 'peace church' tradition, Howard Zehr invokes the New Testament teachings and story of Jesus as a basis for

forgiveness, facilitated by lament and prayer. He argues that, in restorative justice, forgiveness empowers victims by releasing them from the hold of the wrongful act and the wrongdoer (Zehr 2005, pp. 45–50). On this Christian understanding, forgiving can aid the reduction of, and gradually process and cleanse, persistent anger, fear, shame, and desire for revenge. It can enable victims to move forward in ways that are not oriented by or tethered to an experience of harm and the actions of a wrongdoer. As such, forgiveness is a process of self-empowerment. 'Forgiveness is letting go of the power the offense and the offender have over a person. It means no longer letting that offense and offender dominate. Without this experience of forgiveness, without this closure, the wound festers, the violation takes over our consciousness, our lives. It, and the offender, are in control. Real forgiveness, then, is an act of empowerment and healing. It allows one to move from victim to survivor' (Zehr 2005, p. 47).

At the same time, Zehr argues that religious tradition-specific notions of forgiveness are not essential to restorative justice. Restorative justice practices may provide contexts within which forgiveness and interpersonal reconciliation can organically emerge. However, forgiveness is by no means a prescribed telos or goal at which all versions of restorative justice must aim. People find different ways of 'letting go' of pain and anger, of healing from harms they have experienced, and moving from victim to survivor. In the general understanding of restorative justice, then, following a particular religious or ethical prescription to 'forgive' or to reconcile with a wrongdoer is a decision left to the participant. 'There should be no pressure to choose to forgive or to seek reconciliation,' Zehr writes elsewhere (Zehr 2002, p. 8).

Consistent with this, restorative justice researchers, Marilyn Armour and Mark Umbreit, conducted a broad study of the effectiveness of restorative justice initiatives. They looked at the self-reported impact upon participants in reducing anger, anxiety, feelings of shame, and fear as well as reported increase of sympathy for the responsible party. They discovered what they describe as a *paradox* of forgiveness in restorative justice practice. Namely, the more that initiatives prescribed forgiveness as a goal of a restorative justice, the more likely were participants to report feeling pressured or 'preached at' regarding the goal of the process that they should embrace (i.e. forgiveness and reconciliation). They reported these as truncating their experience of healing and recovery in the process. This sometimes compromised the safety of the space in which they practiced restorative justice. By contrast, when initiatives did not foreground forgiveness as a specific objective or prescription, participants self-reported comparatively higher experiences of safety and healing, a reduction of anger and anxiety, an increased sense of agency, the ability to experience empathy, compassion, and a changed attitude toward persons who had harmed them, features that some consider characteristic of forgiveness. In other words, the more forcefully forgiveness was explicitly prescribed, the less it tended to actually manifest. The less forgiveness was explicitly proposed, the more elements often considered constitutive of forgiveness tended to emerge organically (Armour and Umbreit 2005). Whether in the context of a religious tradition or not, forgiveness and/or reconciliation should be central in restorative justice in so far as the harmed people find them helpful or necessary for meeting their needs, assisting in their healing and recovery and resulting organically from their informed, freely chosen decision and/or personal commitments.

The forgoing thumbnail sketch of the ethical framework, the intrinsically relational account of justice, and spiritual resonances of restorative justice portray its uses in response

to direct violence and in mainly transitional circumstances. In the remainder of this chapter, I will examine the extent to which community-based restorative justice initiatives may (or may not) address structural and cultural violence, focusing on the racialized dimensions of US mass incarceration.

Restorative Justice, Structural Violence, and the New Jim Crow

At the outset of this chapter, I claimed that the necessity of attending to structural and cultural forms of violence and systemic injustice is conceptually intrinsic to the accounts of relationality from which restorative justice derives. In the paragraphs that follow, I will make my case for this claim with reference to the context of the US prison-industrial complex, and more specifically, a form of structural and cultural violence there identified as the new Jim Crow. I argue that restorative justice ought not merely concern itself with healing and repair. Rather, it can and must simultaneously strive to illuminate structural and cultural forms of violence and facilitate change.

Human relationships never occur in a vacuum. They are embedded in particular social locations. Those locations have histories reflected in the socioeconomic, political, and cultural dimensions of the contexts in question. Thus, to fully address the justness of relationality in a given context, restorative justice cannot limit itself to attending to particular interpersonal relationships or even the broader relational webs there. Rather, it must simultaneously attend to the structural and cultural constitution of the relational contexts and the relational patterns in and through which particular relationships occur and broader relational webs unfold within that context.

In as far as it promotes the genuinely holistic just relationality exposited above, restorative justice must illuminate and work to counter structural and cultural violence *through* (rather than in contrast, or somehow secondary, to) cultivating interpersonal, communal, societal, relational forms that promote human flourishing. It must illuminate and resist those that do not. In other words, at its best, restorative justice can and must attend to the structural causes and conditions of harm as well as cultural conditions that may appear to justify (or camouflage) that harm. Conversely, at their best, restorative justice practices and initiatives can and will proactively promote just structures and cultures even as they cultivate just relationships among persons and communities. How might this occur? I briefly examine structural and cultural violence in US mass incarceration as a test case.

The United States incarcerates more of its citizens than any other country in the world. Though long recognized for excessively incarcerating poor people, recent decades have exposed savage disproportionalities in the rates by which the United States imprisons its Black and Brown citizens. Scholars now describe the US prison-industrial complex as a caste system that discriminates by race and ethnicity, what legal scholar, Michelle Alexander, famously termed the 'new Jim Crow' (Alexander 2012). The new Jim Crow presents pervasive forms of structural and cultural violence and, thus, a formidable challenge to restorative justice.

Jim Crow refers to the pre-Civil Rights Movement era in the United States. It was characterized by legalized forms of discrimination, segregation, and terrorism of Black and Brown people under the 'separate but equal' (read 'apartheid') doctrine established by the US Supreme Court case, *Plessy vs. Ferguson* (1896; reversed in 1954), as well as countless state

laws and local ordinances. The Jim Crow era imposed social controls through 'colored only' laws (e.g. segregated bathrooms, buses and trains, water fountains, pools, seating, and so forth), voting restrictions and prohibitions for African Americans, 'vagrancy laws,' and 'black codes' allowing police to arrest Black citizens and detain them indefinitely for hard labor as well as countless other forms of exclusion and marginalization. The Jim Crow period between 1877 and 1950 witnessed 4,384 racial terror lynchings, a primary instrument of enforcement for local Jim Crow laws and norms.

The new Jim Crow is an apt term to describe a racialized caste system manifested by the broader 'prison-industrial complex' that has emerged in the United States since the end of the Jim Crow era (the late 1960s). The contemporary US mass incarceration system, in effect, replicates many of the forms of social control through discrimination and marginalization of minority populations that were prevalent during the original Jim Crow era. The new Jim Crow segregates and marginalizes through apparently legal, structural, and cultural forms of violence. 'Tough on Crime' and 'War on Drugs' legislation, policing, and jurisprudence disproportionately target minority populations, especially Black and Brown. Moreover, to have a criminal record is to become 'locked out of mainstream society.' For example, people convicted of a felony or people charged with a felony who plead guilty in a plea bargain are often denied the right to vote ('felon disenfranchisement'), become ineligible for public housing and federal nutrition assistance programs, are ineligible for federally funded health and welfare benefits, and are ineligible for federal student loans (Mauer and Chesney-Lind 2002). The highly racialized disproportions of the results produce, in effect, a racial caste system which permanently marginalizes certain racial and ethnic groups. Can restorative justice address the structural and cultural forms of violence perpetrated in the new Jim Crow?

Restorative justice recognizes that the retributive conception of justice in the United States ultimately promotes the very state of affairs that it purports to combat (Reiman and Leighton 2016). Retributive punishment punishes by isolating and incapacitating persons. It thus further damages the very relational forms that must be cultivated, where necessary, repaired and/or altered, to achieve the just relationality that promotes the flourishing of persons, communities, and societies more broadly. The US retributive system ignores the concrete needs of victims, the humanity of offenders, the destructive impacts of crime upon communities, and the structural causes and conditions that precipitate and perpetuate the criminalization of people and groups. Restorative justice can contest the cultural and conceptual presuppositions that make the punitive features of the new Jim Crow seem or feel 'right,' or 'at least not wrong,' by conceptually challenging, and in practice, displacing, retributive punishment practices as the necessary form of justice (or supposed 'true' meaning of justice).

Of course, if we take seriously Alexander's historical and socio-political account of the new Jim Crow, then restorative justice cannot simply seek to counter the savage disproportionality of retributive punishment that fuels mass incarceration with greater proportionality. Nor can it merely respond to putative wrongdoing in merely 'kinder, gentler' forms of correction. Rather, it must recognize mass incarceration in the United States as a racialized caste system. This requires not just responding differently to crime but calling into question what gets classified and categorized as crime in the first place and why. It requires interrogating which people or groups come to be profiled for and ascribed by these violations, how those patterns and profiling trends came to be, and what holds them in place. It requires

thinking in terms of *de-criminalization* (especially of draconian War on Drugs laws, but countless others as well) as a means of decarceration. It must illuminate the historical racism that drives US mass incarceration and promote anti-racist policies and practices as a result. Can restorative justice respond in these ways?

Recall, as a theory of justice, restorative justice intrinsically works to dislodge the victim, offender, and community relational webs from being oriented by and locked into a state-centric, retributive punishment conception of justice. This can challenge, and facilitate practical alternatives to, the structural formation of the contemporary US criminal justice system in several ways.

Restorative justice practices can effect a 'taking back of power' from a state-centric system that renders participants passive and persistently disempowers them. It can do this, in part, by empowering all parties to the restorative justice practice as direct participants, with agency and voice, rather than as passive patients of the system. For example, members of peacemaking circles that respond to harm and wrongdoing will often generate 'repair of harm' agreements in which the emergent consensus of the restorative justice practice is binding rather than imposed from outside by a prosecutor and/or judge. Such justice is restorative in so far as the circle practices of relationship building cultivate an inclusive 'non-dominated consensus,' a consensus in which all participants have meaningful input and voice, are accountable to each other, and are attended to and respected and treated fairly in the process (Braithewaite and Pettit 2000, p. 155). This practice of justice wrests power back from a system structured in a way in which prosecutors, judges, administrators, or other representatives of the system operate without (or with little) accountability to persons accused of wrongdoing and even without substantial accountability to the victim or the community impacted by the harm. In this, restorative justice has the capacity to challenge and overturn a form of cultural violence that Johan Galtung identified as *marginalization*, a dynamic that keeps those subjugated on the outside (disconnected from decision-making processes that directly affect them and without even information about how such decision processes are made and implemented) (Galtung 1990, p. 294).

Restorative justice practices, by contrast, contribute to genuine relational justice in so far as they afford active agency to all participants in the substantive practice of justice (understood, in such cases, in terms of relational repair of harms). They enact mutual accountability, each to the other, through speaking truthfully, attuned listening, and tailored response, decision-making, and action for purposes of repair. The justice of restorative justice is enacted, in part, by illuminating and amplifying the ways that all participants are somebody, not a nobody (Braithewaite and Pettit 2000, p. 152). All members in the circle command respect through finding, formulating, and conveying their story in their own voice. This takes power back from the state's top-down implementation of laws that target and categorize communities of color in the United States.

Consider a further example. The US War on Drugs culturally manifests in ways that stigmatize people and communities of color. The neighborhoods in which they live become portrayed as ganglands and ghettoes (Alexander 2012, Chap 3). The broadly shared perceptions of the people groups who are putatively most likely to engage in crime, and the spaces most likely to be criminalized, is a manifestation of cultural violence that has long stigmatized these groups of people and the places where they live. This is a stigma projected onto the people and communities in question. It is promoted (sometimes passively accepted and naively unquestioned) by people who benefit from these groups' stigmatization. At the same

time, such stigmas also risk being internalized by many members of the stigmatized group. This reflects a two-fold dynamic of cultural violence that Galtung called *fragmentation* and *penetration*.

Fragmentation refers to a dynamic by which structural violence internally divides marginalized groups and incapacitates their pursuit of solidary resistance by keeping them separated from and divided against one another (Galtung 1990, p. 294). It is one way that the new Jim Crow differs most profoundly from Jim Crow. Racialized stigma during the earlier Jim Crow era (legalized inequalities and terrorism of black communities) actually generated community solidarity and motivated collective resistance among the oppressed group. '[R]acial stigma during Jim Crow contained the seeds of revolt' (Alexander 2012, p. 196). The stigma of 'criminality,' by contrast, has '...destroyed networks of mutual support, and creat[ed] repressive silence about the new caste system among many of the people most affected by it.' Fragmentation suppresses possibilities for the very forms of collective action necessary to challenge and dismantle the mass incarceration system. Indeed, the system is all the more insidious in that it induces some people in those communities to appeal for further and harsher 'tough on crime' policies in their own communities. Thus, the very social and communal bonds upon which community organizing (and any broader social movement) depends are shamed and stigmatized in ways that result in silencing and repression and even an insidious inversion of the mutual support and relational agency through which a bottom-up response for constructive change could coalesce.

Penetration is another form of cultural violence that Galtung names and which especially targets people of color in a society infused by white supremacist structural and cultural features. In this dynamic, the perceptions of value, meaning, and the conceptions of beauty and self-esteem that characterize the regime of oppression come to be 'implanted within' the oppressed (Galtung 1990, p. 299). A frequent result is that what the oppressed comes to desire, value, consider beautiful, aspire to become are absorbed from (or oriented by) the regime of oppression. This can be an especially powerful form of racialized cultural violence. Martin Luther King, Jr., identified this as a dynamic needing to be overcome by African Americans to successfully pursue true justice and their own liberation. King described it as 'cultural homicide.' It occurs in many forms of psychological and spiritual captivity to the valuations of a society saturated by white supremacist values, resulting in self-abnegation and a pervasive sense of 'nobodiness' (King 1968, pp. 90–95). It is a manifestation of penetration.

Of course, penetration afflicts the beneficiaries of the white supremacist dynamics of the new Jim Crow as well. As King diagnosed it, the valuations of a white supremacist society creates a false sense of 'normalcy' and 'privilege' in white people. It is a false normalcy and illusory esteem because it is predicated upon social formations that treat unjustly and subjugate African Americans (and non-whites, more generally). It is not true relationality and, thus, cannot be the basis for true relational justice. The white supremacist structures and cultures that dehumanize people of color, thus, also dehumanize and distort the personalities of white people (reflecting a central implication of Ubuntu from above, which is 'whatever dehumanizes you, dehumanizes me'). Though its destructiveness for white and Black people are never simply equivalent, nonetheless, white supremacy penetrates the hearts, minds, and souls of white people in ways that dehumanize them (Mikulich et al. 2013, Chap 2).

At this point the relational ethic and ensuing spiritual ethos of restorative justice can make multiple interventions. I will examine two. As a practice of restorative justice, the slow,

trust-building through listening, truth-telling, and deliberation in peacemaking circles can illuminate, interrogate, and combat dynamics of penetration. As such, restorative justice can function as a form of critical praxis (Freire 2016, pp. 51–55). Where intentionally undertaken, it can afford means by which, as James Baldwin put it, '...that we, with love, shall force our [white] brothers to see themselves as they are, to cease fleeing from reality and begin to change it' (Baldwin 1963, pp. 22–23). In these ways, the relational nature of the justice, which constitutes restorative practices in so far as it is genuinely actualized, combats the cultural violence of penetration in its multiple directions.

Second, restorative justice has the capacity to counter the stigmatization (or humiliation) through which *fragmentation* occurs for all stakeholders affected by wrongdoing (and criminalized wrongdoing, especially), acids that denude the prospects for solidary action and organizing. For example, it can challenge the imposition of the 'criminal' label by the state and broader societal perceptions by affording space to and centering the voices of the individuals and community members caught up in harm, wrongdoing, destructive conflict, and violence in all its forms. Community-led peacemaking circle initiatives can problematize and challenge top-down labeling and categories imposed by the criminal justice system. At the same time, peacemaking circle practices can facilitate the cultivation of local relationships oriented by trust-building and truth-telling that can counter the community fragmenting acids of stigmatization through criminalization. At their best, restorative justice resists fragmentation through practices of genuine care, compassion, concern, and love. As a form of bottom-up community building sustained over time and scaled outward, this can combat the violence of fragmentation.

The dynamics of penetration, stigmatization, fragmentation, and marginalization of communities that are criminalized within the US prison-industrial complex drives what the public philosopher and religious thinker and activist, Cornel West, identifies as a form of 'nihilism.' On West's account, nihilism is an existential, lived condition, characterized by the absence of shared concern, interpersonal compassion, care, and social hope. As West has it, nihilism is '...the lived experience of coping with a life of horrifying meaninglessness, hopelessness, and (most importantly) lovelessness.... Nihilism is a disease of the soul.' He explains, 'Nihilism is not overcome by arguments or analyses; it is tamed by love and care. Any disease of the soul must be conquered by a turning of one's soul. This turning is done through one's own affirmation of one's worth and interwoven with one's concern of others. A love ethic must be at the center of a politics of conversion' (West 2017, pp. 14–15, 18–19).

Here, the spiritual ethos of restorative justice becomes especially pertinent for the practices of religion and peacebuilding in contexts beset by forms of structural and cultural violence described above. When implemented consistently with the normative implications of its relational constitution, practices and initiatives of restorative justice will neither merely divert people from or moderate disproportional punishment nor even merely heal and repair particular harms. Rather, they will cultivate and build human relationships that reflect holistic relational justice and, thus, manifest compassion, care, love, offer hope, meaning and thus empower agency for resistance to subjugation and further constructive action for change. In this, restorative justice concepts and practices can illuminate and directly counter structural and cultural forms of violence that impact consciousness formation, the effects of which tend to write themselves upon the mind, heart, human spirit, and which fragment communities, all of which are exerted by contemporary legal and social structures in the US restorative justice is able to counter criminalization and stigmatization by repositioning

(centering) people and communities enmeshed in the criminal-justice system as participatory, resistant agents, and stakeholders in practices of holistic, relational justice rather than passive patients. They participate through practices that repair the harms affected by destructive conflict by centering and meeting the needs of the victims and others affected. They hold accountable through ennobling, reparative, tailored participation by responsible parties, and other parties as well. They reposition the community as a central participant in investigating and altering the causes and conditions that precipitated the harm. This can reclaim communal agency and identities from a system-led, prison-industrial complex to which all parties are beholden as passive recipients (Davis 2003). It can illuminate and challenge the histories and processes by which certain actions, people, and communities become criminalized and, thus, stigmatized in the first place. As a restorative justice practice can cultivate non-dominated consensus that is binding and final for 'repair of harm' agreements, so can it also determine that a particular action ought not be categorized as 'criminal' in the first place and respond accordingly. Local neighborhood and community initiatives can and have scaled outward to form collaborative networks of restorative justice initiatives that provide parallel, alternate, or critically cooperative arrangements with contemporary systems (Johnson et al. 2015).

As an ethical framework, an account of justice, and set of peacebuilding practices, which can facilitate the building of community-wide, city-wide, or society-wide networks of initiatives, restorative justice can offer means for building a '...durable, interracial, bottom-up coalition for social and economic justice' to illuminate and combat the new Jim Crow (Alexander 2012, p. 243). It can also guard against such a caste system being, in effect, preserved or re-instantiated through what appear to be vital reforms, and corrections to, that system (Alexander 2018). Thus, restorative justice presents theory and practice that interweaves with the broader field of religion and peacebuilding. In principle, it can intervene in and counter structural and cultural violence. To determine the extent to which it successfully does so requires concretely examining the initiatives and contexts in which it is implemented.

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