

RESTORING JUSTICE THROUGH NARRATIVE IDENTITY AND DIALOGUE

BY **DIMITRI LORINGETT**



In the 18th century Cesare Beccaria, the great Italian thinker of the Age of Enlightenment, established that the purpose of punishment for a criminal act is to create a better society, not revenge. Today, when confronted with certain crimes, we sometimes feel a sense of powerlessness, and so we try to react, perhaps emotionally, by invoking justice and asking the perpetrator to be punished, even if we are not always sure of their guiltiness. However, this request for punishment fails to consider the real needs of the victim who, behind an apparent request for revenge, could be seeking much more or even something else. So, when talking about criminal justice and respect for human dignity, we can – and probably should – reread the enlightened words of Beccaria. Or, we could also explore the more modern theory of restorative justice (RJ) which, in a nutshell, is an approach to justice that looks towards the future, not the past, focusing on what needs to be healed, what needs to



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be repaid, what needs to be learned in the wake of a crime. The discussion around RJ in Switzerland is currently underway through the Swiss RJ Forum, which has recently reached the Italian-speaking part of the country with the creation of a Ticino chapter, coordinated by USI professor Annamaria Astrologo.



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Could you explain what RJ is, more in detail?

«The objective of restorative justice is in fact to recognise all parties involved in the crime: the offender, the victim, possibly, their families and communities in order to recompose the conflict between them. The very idea of recomposition is opposed to the crime

committed. Talking about restorative justice requires courage because it is an ambitious idea of justice that places the person at the centre and has among its founding values the key concepts of consideration, listening and respect for the other person. In this sense, we can perhaps understand this vision of justice as one that converts from a mere conception of justice into a (generic) approach of disagreement management or a true inter-relational method. Restorative culture can, in fact, cast light on different areas: work, education, and social issues, which are all areas in which the essential elements described above become operational tools for implementing prevention and/or intervention strategies in cases of dispute».

From your perspective as an academic researcher in criminal law, why do you feel it is important to foster the discussion on RJ?

«From my perspective it is very important to explain the proper role of restorative justice. It is wrong to talk about the opposition between traditional criminal justice and RJ, which is an idea of justice that is complementary to criminal law. Restorative justice cannot be considered as a system that is autonomous and alternative to traditional criminal justice, primarily because it implies the voluntary choice of this kind of approach. Secondly, both forms of justice need to coexist because criminal law performs the fundamental function of defining the area of what is criminally relevant by providing rules. However, complementing criminal law with RJ (for example, through victim offender mediation or family group conferencing) effectively smooths out the more violent and brutal component of the former by using instruments that focus on the dignity of all parties involved».

How can the discussion on RJ be improved in Ticino?

«Restorative justice is also becoming the subject of an important discussion in Switzerland, in view of the fact that on

18 March 2021, at the request of its committee, the National Council proposed the inclusion of the principle of “restorative justice” in the Code of Criminal Procedure, intending with this to include the possibility of mediation in criminal proceedings. This proposal will soon be examined by the Council of States. This is clearly a highly topical political issue. In Ticino the discussion on restorative justice and, in general, of the restorative culture is brought forward by the regional group of the SwissRJForum, which is hosted by the Institute of Law at USI. The Ticino chapter of the Forum was created a few years ago and aims at raising awareness among the public, the political, and the judicial authorities, through the organisation of events and round table discussions on the subject. Additionally, in terms of scientific research at USI we have established an intense collaboration between the Institute of Law and the Institute of Argumentation, Linguistics and Semiotics, and in particular between Prof. Sara Greco and myself, allowing to approach the subject of restorative justice in a multidisciplinary way. In fact, academic investigation on RJ is not limited to the legal components and the applicability of RJ instruments in criminal proceedings, but also to the concrete functioning of the same, which to be truly effective requires great attention to the aspects of communication and language. We believe that the formamentis of the legal expert should consider that in order to enable communication between the parties and to make restorative justice tools effective, the language changes: for instance, the focus is no longer on the guiltiness of the perpetrator but on their responsibility».

Restorative justice offers the possibility to go beyond a merely retributive conception, by enhancing the understanding of the perspective of the other, putting the victim at the centre, and enabling improved social relations between the victim and the offender.

To introduce the subject of RJ in a way that is not only theoretical but also experiential, Università della Svizzera italiana, together with the Probation Assistance Unit of the Canton Ticino, has devised an innovative course, as part of its continuing education programmes, addressed to former convicts focusing on the concepts of narrative identity and dialogue. Narrative identity entails that individuals form an identity by integrating their life experiences into an internalised, evolving story of the self that provides the individual with a sense of unity and purpose in life. In order to be heard and understood, the respective narratives need to be included in a process of critical and open (argumentative) dialogue. The three-day course, which took place at the USI campus in Lugano during the past month of August, saw a small group of former convicts attending classes to learn and work in groups on subjects such as mediation, reconciliation, dialogue and, of course, RJ. Prof. Astrologo and Prof. Greco were responsible for the course and other colleagues collaborated by organizing part of the lectures. Prof. Sara Greco shares with us the pedagogic approaches and experiences collected during and after the event.

What was this course about, what were its objectives?

«The course was structured in two parts, theory and practice – just like an ordinary university course. It began with an introduction on the theory of argumentative dialogue and the construction of dialogue spaces, leading to workshops during which the participants applied what they learned. The course was intensive – three full days of classroom activity – but also intense, with emotions and personal situations exposed and discussed. The main objective of the course was to instil a culture of restoration, which can only be done through dialogue, by explaining what is not explicit in conflict: reasons and emotions.

In a way, words are essentially all we have to overcome a conflict. At the end of the three days, the students learned a few basic principles of dialogue, like how to ask questions that are neither offensive nor rhetoric (enabling thus an open conversation) and how to listen to the other person's perspective. The course, though designed specifically for this audience, is one that anyone can attend. The idea of this course in fact was not to discuss the crime-related and justice-related issues but conflicts that may occur in anyone's experience. This is important in the accompanying our students re-enter society. Indeed, conflict management through the construction of dialogue spaces is especially useful when you are faced with everyday life».

What were the outcomes of the course, and what did you learn as a professor faced with this uncommon cohort of students?

«Let me start with a recurring comment from the students. They very much appreciated being considered as students attending an ordinary university class. Also, they acknowledged how we, as teachers, were open to applying the principles of argumentative dialogue with them. Overall, it was probably the most intense teaching experience ever, essentially because my colleagues and I were confronted with individuals that had experienced acute conflict situations and asked profound questions about the limits and opportunities of dialogue».

What do you think about this collaborative experience?

«The key to the successful outcome of the course was indeed the collaboration between the University – and between my colleague Prof. Astrologo and I – and the cantonal authority. In fact, Probation Assistance Unit regularly gives similar courses in prison, but had never

done so outside of the penitentiaries, nor in collaboration with USI. Although I am known relatively well in the field for my work on conflict mediation and, likewise, my colleague Prof. Astrologo is actively engaged in the discussion on restorative justice, it was when were approached by the former director of the Probation Assistance Unit, Ms Luisella Demartini, that we initiated the preparation of this course, which ultimately underlines also the importance of collaborative teaching and research among academics who, though active in different contexts, turn out to be very complementary and perhaps essential to address issues in society». 

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Un aggiornamento necessario per continuare a offrire i più moderni trattamenti chirurgici, un investimento importante, programmato dall'Istituto del cuore e avallato dall'Ente Ospedaliero Cantonale, consapevole della nuova responsabilità verso il Cardiocentro e verso la popolazione ticinese. Questo investimento di circa 2.5 milioni consegna al Cardiocentro un'infrastruttura modernissima e gli consente di mantenersi allineato sui più alti standard internazionali nella cura della patologia cardiaca. Le sale operatorie ibride rappresentano l'evoluzione delle sale operatorie tradizionali, imposta sotto la duplice

spinta dell'innovazione tecnologica e, in ambito cardiologico, della conseguente trasformazione delle tre discipline mediche che riguardano specificamente il cuore - la cardiologia, la cardiocirurgia e la cardiomanegesia -, sempre più integrate e interconnesse tra loro. Solo in un contesto fortemente multidisciplinare, infatti, si possono offrire le terapie più moderne: interventi chirurgici sempre meno invasivi, procedure cardiologiche sempre più efficaci.

«La sala ibrida – spiega il Prof. Stefanos Demertzis, primario di Cardiocirurgia al Cardiocentro – è una sala operatoria evoluta, un ambiente di la-

vorio chirurgico che combina attrezzature per la diagnostica per immagini con un tavolo chirurgico multifunzionale. Una soluzione che ci permette di effettuare diagnosi accurate e trattamenti in un'unica postazione, diminuendo rischi e ritardi, e soprattutto migliorando la sicurezza del paziente. È infatti molto importante considerare che, non solo ma in modo particolare nell'ambito cardiocirurgico, l' imaging intraoperatorio è sempre più fondamentale per offrire al paziente i trattamenti più moderni, con la minore invasività possibile e con il rischio chirurgico più contenuto».