The Semiotics of Restorative Justice: The Healing Garden Nurtured from the Well-Spring of Signs, Symbols and Language

Jack B. Hamlin

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While writing the foreword for this special edition of the International Journal for the Semiotics of Law, I was informed of Dr. Nelson R. Mandela's death. While saddened with his passing, I was struck by the fact, he was one of the two men who most influenced my study and practice of Restorative Justice; the other was my father. Both passed away while this edition was compiled and edited.

In the mid 1990s, I first read about Restorative Justice as an aspect of the Truth and Reconciliation Commission ("TRC") established by Dr. Mandela in post-apartheid South Africa. I was fascinated by his forgiveness of his oppressors and how he infused the ideals of reconciliation and forgiveness into a court-like hearing. It was an opportunity for the victim of human rights violations to face the perpetrator and tell the perpetrator the extent of the injuries he or she suffered. After the victim spoke, the perpetrator had an opportunity to admit to the wrongdoing, take full responsibility for the harm done and ask for forgiveness. Regardless of whether or not forgiveness was bestowed by the victim, the Commission was charted to grant amnesty to the perpetrator. From a western perspective, the concept was at once inconceivable and full of hope. At the time I was a practicing criminal defense attorney. To use the vernacular, I was hooked.

The limited literature at that time indicated Restorative Justice was an effective tool used to begin the healing process after a specific harm has occurred. Two common themes which run through all restorative practices is that it is community based and traditionally works in tandem with the justice industry, such as the Gacaca Courts (pronounced Ga-cha-cha) in post-genocide Rwanda.¹ In some locales, complete aspects of the justice industry have been replaced with restorative practices. This can be found in the Family Group Conferencing in New Zealand,

¹ Hauschildt [1].

which integrates a western and indigenous peoples approach in addressing juvenile crime.²

In 2007, I was contacted by San Diego Restorative Justice Mediation Program (“SDRJMP”).³ This was my opportunity to put the various theories I had studied into practice. At the time, SDRJMP used almost exclusively a Victim-Offender Reconciliation Mediation model.⁴ The first case I was assigned was a vehicular homicide case. Two young men had been driving after a night of drinking and drugs use. The driver failed to navigate a turn. The car left the road and rolled. The driver was nearly uninjured, physically. The passenger, the driver’s best friend, died at the scene. After the young offender served a year in custody, the mediation was set to take place between him, his parents and the parents of the young man who died. The young survivor wrote a letter to the victim’s parents which he read during the mediation. His remorse for taking the life of his friend, their child, was genuine and he asked their forgiveness. Although not required, the parents of the young man who was killed forgave him.

Then the healing process began. Both sets of parents and the young man talked over the course of two hours and determined a plan for him to create a legacy for the loss of his friend. It included enrolling in community college, working full-time, involving himself in Alcoholics Anonymous, finding an AA sponsor, and to tell his story to high school students in hopes of preventing a reoccurrence with another set of families. The father of the young man who died was quiet during most of the mediation. When he finally opened up, he asked the young man, what he would do if faced with a situation that could lead him back to destructive behavior. The young man was stymied, and said he did not know. The father looked him the eye and said quietly, “Pick up the phone, and call me. I will help you.”

Needless to say, there were many tears and hugs at the conclusion of the mediation. I am pleased to report the moment of reconciliation carried forward. The young man fulfilled his obligations, stays in close contact with his friend’s family, and is now married. The power of Restorative Justice in my mind is undeniable.

It was during this time I first presented at the International Roundtable for the Semiotics of Law, on a different, but similar issue. It is indeed an impressive organization. The international insight and cultural perspectives of the impact of semiotics on law cannot be ignored. I come from a background, however, that words without actions are mere words. It has therefore been a great honor to have been afforded the opportunity to serve as the guest editor of this special edition of the *IJSL*; The Semiotics of Restorative Justice; The Healing Garden nurtured from the Well-spring of Signs, Symbols and Language.

With the publication of this special edition, it is my hope to create a springboard to a much larger analysis of international perspectives of the Semiotics of Restorative Justice. So we are merely dipping our intellectual toes into the well at this time.

² For a further description of New Zealand’s Family Group Conferencing, please see, Morris and Maxwell [2].

³ The San Diego Restorative Justice Mediation Program [3].

⁴ Umbreit et al. [4], Marshall and Merry [5].

We are fortunate to open this edition with the poem *O Wilderness* composed especially for this edition by our Australian colleague R. Regina de Vela-Santos. It is at once thought provoking and sets a tone for our special edition.

Our contributors represent a sampling of cultural perspectives important in their work in Restorative Justice. From Hawaii, in their paper, *Ohana Ho‘opakele: The Politics of Place in Corrective Environments*, Marilyn Brown and Sarah Marusek have provided enlightening insight into the community-based organization ‘Ohana Ho‘opakele’ which seeks to provide a Hawaiian holistic approach that will serve as an alternative to incarceration. Through wellness centers (pu‘uhonua) and the practice of traditional ho‘oponopono, this group advocates for a spatially-oriented rehabilitative approach to Restorative Justice. A central feature is the land upon which the program will be situated and its organization as self-supported.

From Britain (via Australia) Dr. Annabelle Mooney, argues in her paper, *Restoring Trust: Plachimada, the human trust and Anticipatory Negligence as Restorative Justice*, human trust insists that some ‘goods’ are so important that they can neither be owned nor spoiled; rather, they must be protected. She uses the example of Plachimada’s battle with Coca-Cola over the use of local ground water in Kerala, India, and considers the progress in making water a human right, the ongoing privatization of natural resources, and the ubiquity of the contract. The human trust questions the merit of analyzing human relations in contractual, and ultimately economic terms; this extends to a critique of the ‘social contract’ and the increasing application of cost benefit analysis to policy areas. If, however the ‘contract’ is replaced with the human trust it allows us to see all kinds of undesirable activity as crimes against people rather than an abstract state, a view that aligns with the underpinnings of Restorative Justice.

Again from Australia, *Mater Dolorosa: Negotiating support in NSW Youth Justice Conferencing*, is presented by our colleagues, Michele Zappavigna and JR Martin, analyzing verbal and body language with the Youth Justice Conferencing. In assessing the avouchment genre and its implication, they consider the ways in which values are composed, as ideational categories are coupled with evaluative interpersonal ones, and unfold in discourse as invitations for participants to align. Conference participants negotiate these couplings by both construing their relational identities as *personae* interacting in a youth justice conference, and entering into alignments with different communities (friends, family, class etc.) who hold particular values, not the least of which is body language.

From the University of Lodz, Poland, Dr. Bartosz Wojciechowski, discusses the *Changing Roles Between the Victim and the Offender as an Element of Punishment*. This uniquely Eastern European perspective addresses Restorative Justice by focusing on the concept of communication which involves dividing two holistic systems of behavior between at least two individuals; each party acknowledging the discourse of his/her interlocutor as evidence of his/her own behavior. From this perspective he notes the conception of “exchangeability of perspectives,” is assumed by a natural approach.

Finally, through a serendipitous chain of events I met my colleague, Akira Hokamura, from Kumamoto University, Kumamoto, Japan. Enthused with Restorative Justice, Mr. Hokamura was frustrated with the lack of success of Restorative

Justice programs in Japan. In a semiotic approach our paper, *The Cultural Context of Restorative Justice: Journeys through Our Cultural Forests to a Well-Spring of Healing*, we dissected the language of Restorative Justice to find from an Eastern and Western view such concepts of forgiveness, reconciliation and shame take on a decidedly different perspective. Addressing one of the fundamentals of Restorative Justice, that it be community-based, we concluded Restorative Justice has a place in Eastern culture through semiotic alignment.

The endeavor of compiling a special edition is not a solo task. There are many who should be recognized and thanked. It certainly would not be possible without the support of Springer Publishing and I thank them for the opportunity to further the exposure of Restorative Justice.

I wish to thank my editor-in-chief, prodder extraordinaire, and constant late night email mentor, Anne Wagner, who without her constant support, this special edition may never have been completed.

Restorative Justice has its very own particular semiotics and when it came time to review articles the Association for Conflict Resolution, based in the United States, provided me with much needed reviewers. I would like thank to the following reviewers for their tireless, reflective and thoughtful work; Richard McGuigan, Maia Hallward, Dorothy Della Noce, Robert A. Baruch Bush, Marco Turk, Cheryl Picard, and Andrea Bartoli.

A special thanks to my colleague from National University, Dr. Chandrika Kelso, who helped as the final work to this edition came to an end. You are good friend indeed.

And lest you think there was an incomplete thought at the beginning of this forward, there *were* two men who have inspired my work in Restorative Justice. Truly, Dr. Mandela provided the seeds from which my passion for this discipline has grown and blossomed. But without fertile ground, the seeds would have never grown. The gardener, if you will, who prepared the fertile soil for the seeds of Restorative Justice was my father, Jack M. Hamlin, who passed from this world into the next on September 3, 2013. This gentleman, nee gentle man, did more than teach me to hold open doors and say “please,” and “thank you,” although he taught those lessons as well. He also taught me through his actions to value compassion and forgiveness. I learned from him the concept of respect for others. It was that respect which leads to my passion for social justice and its restoration. Clearly this is a cultivated passion which has become intergenerational. My daughter, Megan, is now an attorney advocating for those who have been victims of discrimination, and my son, Matthew, assists me in his free time, serving the homeless of our community.

It is my honor to dedicate this special edition to the loving memory of my father, Jack M. Hamlin, and Dr. Nelson R. Mandela, who as beautiful and inspirational living models, showed us how we should live with and treat each other, making this endeavor possible. It is from the well spring of their legacy we can and will continue grow the garden of Restorative Justice.

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