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What exactly does restorative justice mean?

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The Seychelles has reached the time when many people are ready to deal with events which occurred between 1977 and 1993. It is proposed that a process be established under the Truth, Reconciliation and National Unity Committee and that it will follow a restorative justice approach. But what exactly is restorative justice?

Retributive justice

The common way of dealing with bad behaviour is punishment. If someone does something wrong, there is a price which they must pay. This is called retributive justice.

Let us think of the parties involved in some wrongdoing. There will be victims and offenders or perpetrators. In the case of a criminal offence, the state (police, courts, perhaps prison services) become heavily involved. In fact, once a victim reports an offence, the state takes over and the victim is largely ignored, except if they are asked to give evidence. The victim may have things to say about how the offence has affected them and what they would like by way of punishment but typically, these are not heard or taken into account.

So only part of the truth comes out under retributive justice – the part which the court considers to be relevant in deciding whether the offender is guilty or not. The victim may get some satisfaction if the offender is convicted and they may feel a sense of closure. But offenders, assuming they are guilty of the offence, often escape conviction because of small legal technicalities. And even when they are convicted, there is often much that victims would like to say to the offenders but they cannot. The healing which takes place can be limited and there is no formal way for a victim to forgive the offender, if they wanted to do so.

The offender, if convicted, will take the punishment decided by the court. But there may be no real regret or repentance and they may well repeat the offence or similar ones in the future.

Restorative justice

A restorative justice approach can overcome a number of the limitations of retributive justice. Although restorative justice has been `discovered` and practiced in the West for only 30 years or so, it has deep roots in traditional community life. If there is an offence, the whole community comes together and any individual is free to say how the offence has affected them and what they would like to happen. After this, the offender is given the opportunity to speak. This usually ends with an apology, a commitment to change their behaviour and, depending on the case, make some form of reparation. Then the matter is over. Such an approach has worked for centuries in countless African communities.

Western restorative justice follows this pattern quite closely and is used for some types of offences in many countries as an alternative to court cases and convictions. All those who have an interest in a case are given the opportunity to speak about the offence and how it has affected them, so that a wider truth comes out. `Telling their stories` often results in a measure of healing for the victim. The offender is given the opportunity to admit that they committed the offence, to apologise to the victim, to commit to changing their behaviour and, sometimes, to make amends in some specific way. Victims can offer forgiveness to the offender.

In summary, then, the benefits of restorative justice are

- Victims' stories are heard and some healing can occur
- Offenders can apologise and ask for forgiveness
- Forgiveness can occur

Reconciliation is a possible additional step. A victim might offer forgiveness to an offender and for the matter to end there and this would be a great step forward. But there are also stories of victims and offenders coming to understand each other in deep ways and becoming friends.

So that is a broad summary of the restorative justice approach on which the Seychelles is beginning to embark. We end with two general comments.

First, no system is perfect and no system will satisfy every person or group. The particular ways in which the Seychelles decides to practice restorative justice needs to be thought about very carefully and discussed extensively so that as many people as possible understand and support it.

Second, human beings have strong retributive tendencies - `an eye for an eye and a tooth for a tooth` - but in spiritual terms, we are asked to move beyond this. We are asked to love our enemies - to want the best for them - and to forgive those who have wronged us. Restorative justice can be a vehicle to help us do that.