

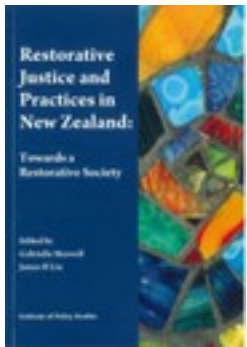
Book Review: Restorative Justice and Practices in New Zealand: Towards a Restorative Society.

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Restorative justice provides more than a programme in the criminal justice system. It provides a framework that can be applied to and between societies for resolving conflict and responding to many different issues.

[edited by G Maxwell and J H Liu. Institute of Policy Studies, Victoria University of Wellington 2007. 350 pages. ISBN 1-877347-19-1 .](#)



‘We have seen the future and it is restorative’ might be a summary of this interesting book. As the title suggests, it argues that restorative justice is more than an imaginative addition to the criminal justice system; it is an approach to resolving differences that can be applied within society and between societies.

In the first of its five parts Gabrielle Maxwell outlines the restorative justice approach – not new to many readers, but useful to have a summary from a leading expert. She lists the ingredients of a successful restorative outcome, and it is notable that unlike retribution they are all positive.

Maxwell concedes that prisons will still be necessary, but has not picked up John Blad’s (2006) proposal that even prisons could be run on restorative lines. James Liu also recognises that conflict resolution has a ‘dark’ side, and has limitations: it cannot repair the damage done by the structural unemployment that goes with neo-liberalism, but it can draw attention to social injustices and inequalities.

Part II examines restorative justice in the criminal justice system. Maxwell gives another magisterial overview, this time of the New Zealand system of family group conferences (FGCs) in youth justice. Seventy-seven percent of young offenders are diverted from the system by a simple warning or an

action plan worked out with the police; only 8 percent are diverted to an FGC, and another 17 percent referred to one by a court.

Between 1987 and 2001 the use of custody went down by over three quarters. As for reconvictions, nearly all the factors associated with it are from young people's family and school backgrounds; but non-reoffending was associated with less severe penalties and being dealt with at lower levels of the system, and well run FGCs.

Judge Andrew Becroft and judge's research counsel Rhonda Thompson consider how restorative justice fits in the youth court process. They describe the useful device by which the FGC can proceed if the young person 'does not deny' involvement, without admitting full guilt; this saves having to prove guilt, but leaves the accused free to plead 'not guilty' if no agreement is reached. The court is still needed when liability is denied, or there is a need to incapacitate or deter the offender; it monitors the defendant's progress and the outcomes of FGCs. They conclude that the present system could be more restorative.

The well-travelled Judge Fred McElrea describes restorative justice for adults, in the wake of the Sentencing Act 2002, which is worth studying because the first four purposes of sentencing are restorative, and punishment for its own sake is not included. Courts must take account of any restorative outcomes, and can adjourn until they are implemented. In the same year the Victims' Rights Act requires all concerned to encourage the holding of a meeting of victim and offender. Also worth study is his proposal for community resolution centres using trained mediators (he doesn't say whether volunteers or paid) to deal with many civil and criminal matters, allowing self-referral or diversion from the court system. Outcomes would be shaped towards crime prevention.

In two chapters on policing, Gabrielle Maxwell and police commissioner Howard Broad look at restorative policing, stressing the need for support services, for adequate time, and for taking the opportunity to assemble information on pressures towards crime. This Part ends with a chapter on a faith-based prison unit, by Kim Workman, a Maori former head of the New Zealand prison service. It includes the restorative basis one would expect, infused with a Christian dimension (it is not clear how much of this is voluntary). Good results are claimed, including reduced reoffending.

Part III takes us on to restorative practices in civil society, applying similar principles to civil matters in a long chapter by David Hurley, a lawyer turned mediator. He also briefly covers the emotional impact of conflict and resolution, therapeutic jurisprudence, emotional intelligence and other related topics which have not been sufficiently aired in the restorative literature.

The far-reaching implications of restorative practices in schools are covered by Wendy Drewery, of the University of Waikato; they have been introduced in five schools, and staff from 24 more have been trained. The importance of a whole-school approach is confirmed, as also in 15 schools studies (by Sean Buckley with Gabrielle Maxwell).

A further extension of the restorative idea takes us to apologies for historical wrongs to the Maori

(Maureen Hickey), Chinese settlers, Samoans, children in hospital, and former psychiatric patients (Nicola White). This is topical because of the recent apology to Aborigines by the prime minister of Australia, and there are interesting accounts of the need for a process, with aims and details negotiated in advance.

The ‘reflections on restorative justice’ in Part IV give a visionary account of how, having started with criminality, it is being extended to other spheres where justice is sought (A J W Taylor). Together with civil, criminal and social justice, people have physiological, safety and belonging needs, and the more fortunate and psychologically secure have an obligation to help others who are under strain.

The social psychology of justice (James Liu and Katja Hanke) requires both distributive justice (you get what you put in) and procedural justice, which is the most cogent argument for restorative justice: people will often accept unfavourable outcomes if they feel the procedure was fair.

On ‘justifying restorative justice’, Karen Baehler describes it as a ‘family model’ (she might also have drawn on the similar idea proposed by Griffiths (1970); treating the young delinquent as a ‘wayward child’ rather than an enemy of society); retribution has dangerous consequences for the human spirit. Following Martha Nussbaum, she says that an ethic of care, or clementia, would change our focus from judging and punishing the individuals to changing the social forces that make goodness so hard to achieve.

In the concluding Part V, Maxwell and Liu argue that a restorative approach can heal and restore, as they spread from the justice system to society at large. Christopher Marshall reflects on the spirit of justice in a ‘restorative society’, with an independent mediation service. Finally Jonathan Boston looks towards a restorative society, where all forms of conflict resolution were available to build positive relationships and sound social structures. They should not of course restore a bad situation, but should remember the dark side of human nature, referred to in Liu’s earlier chapter. He ends with an appeal for more experimentation and more resources.

A review cannot do justice to such a wide-ranging collection. It takes the concept of restorative justice to a broader concept of social relations: if you define ‘justice’ in its broad sense, or extend it with a term such as ‘restorative practices’, then restorative justice contains the seeds of a transformation not only of justice but of society, based on encouraging qualities such as trust, self-control and respect for others, rather than surveillance, risk assessment and fear of punishment. Such an important and wide-ranging book should, however, have an index.

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