The Fall and Rise of Restorative Justice: A Historical Account of its Notion, Practices and Possible Lessons Learned

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Abstract

Much has been written on the theory and practice of restorative justice (hereafter RJ). It's effectiveness for restoring communities, reintegrating offenders and healing victims has been outlined. However, very little research has been done on the history of RJ. While publications tend to focus on its implementation since 1970, the historical roots of RJ have been left unexplored. Through analysis of historical and contemporary sources, this article aims to provide a solid historical account of RJ. By developing a more thorough, historical understanding of RJ, a better sense of its current and future challenges and opportunities can be developed.

Keywords

History, Restorative Justice, Acephalous, Greek History, Middle Ages

Introduction

The concept of Restorative Justice (RJ) is relatively new to countries like Pakistan. It was only as recently as 2007 that a RJ program was first introduced into a Pakistan prison. The concept has since garnered growing interest even at the national ministry level. However, given its relative infancy in Pakistan and considerable potential, it is on interest to provide a historical account of the RJ movement as well as to provide some critical reflection that may be seen to be instructive as Pakistan and other neighbouring countries continue to embrace the movement.

RJ is defined as "an ethos with practical goals, among which to restore harm by including affected parties in a (direct or indirect) encounter and a process of understanding through voluntary and honest dialogue (Gavrielides 2007: 139). RJ, Gavrielides argues, "adopts a fresh approach to conflicts and their control, retaining at the same time certain rehabilitative goals" (139). In the literature, there is consensus that RJ practices consist of: direct and indirect mediation, family group conferences, healing/sentencing circles and community restorative boards (Walgrave and Bazemore 1998; Crawford and Newburn 2003; Gavrielides 2007).

Arguably, the term 'RJ' was first introduced in the contemporary criminal justice literature and practice in the 1970s. Some : 24) believe that the term was probably coined by Albert Eglash in a 1977 article).

The 1970s appear to be the decade when criminologists around the world started to think less favourably about what the effectiveness of the criminal justice system. It was also the decade when alternative paradigms were sought (). Arguably, what provoked the interest in RJ as such, were three pivotal articles, all published in 1977. They included articles by Barnett), Christie) and Albert Eglash).

Barnett, Christie and Eglash were among the first to speak of a crisis, taking place in the criminal justice system, and of an alternative paradigm, which could fundamentally replace the punitive and retributive one. All three have been described as 'penal abolitionists.' The central contention of Abolitionism is that: "events and behaviours that are criminalized only make up a minute part of the events and behaviours that can be so defined," and that crime is not the object, but the product of crime control philosophies and institutions" (: 45).

What followed Eglash, Barnett and Christie was a cascade of writings on RJ, while related practices started to be implemented around the globe and principally in countries such as Australia, Canada, New Zealand, the United Kingdom and United States of America. While the concept was developed in the literature and the practices started to be scrutinised and independently evaluated, the original abolitionists' movement that set off the interest in RJ started to wane. In fact, there is evidence to believe that RJ is now accepted more as a complementary option that should be offered in conjunction to the criminal justice system (Mandeed *et al.* 2009).

Gavrielides (2007), among others, argued that this rapid theoretical development of RJ did not match the pace of its implementation. Subsequently, and in conjunction with several other policies, social and financial reasons, most countries that have embraced RJ principles are now experiencing a gap between the theory and practice of RJ.

The primary objective of this paper is to explore the history of RJ with the aim that this can provide a context for its current notion and application and perhaps serve useful for countries like Pakistan to understand the implications of implementing RJ principles. Indeed there is evidence to suggest that the roots of the concept of RJ are ancient, reaching back into the customs and religions of the most traditional societies : 64-68). In fact, some have claimed that the RJ values are grounded in traditions of justice as old as the ancient Greek and Roman civilisations (: 24).

The paper will argue that the implications of a more informed understanding of the history of RJ are significant and instructive if one were to continue to use and expand the use of RJ principles within a criminal justice setting. For example, the historical events that will be unravelled in this paper suggest a cycle of fall and rise

of RJ through time, and point out a number of historical factors that brought RJ to its demise. Indeed it is impossible to safely claim that the current and future theoretical potential and practical implications of RJ is well understood, if the historical events surrounding it are not captured.

In this article, it will be argued that RJ was favoured by ancient societies particularly since their focus was not to make 'offenders' pay, but make reparation to the person – and not the State – they wronged, building stronger futures at interpersonal levels. The historical review of the paper will also show that although 'crime' and 'punishment' are today traditionally associated, this has not always been the case. In other periods and cultures, the response to, what we call today, 'delinquency' did not fall within the legal positivistic understanding of 'crime' adopted by our modern Western societies. This resulted only after the 18th century, principally with the political philosophies of such English scholars as Thomas Hobbes (1588-1679), David Hume (1711-1776) and Jeremy Bentham (1748-1832). In fact, what is understood today as 'crime' was seen by the early communities as a conflict between individuals. Consequently, the terms "offender" and "victims" were coined as a result of this legal positivistic framework.

It will be highlighted that before RJ re-appeared in its current form, it did a full circle. Subsequently, the historical analysis of the chain events completing this cycle raises a number of urgent questions relating to RJ's applicability within the contemporary context of our criminal justice systems. In his work, 'The Peloponnesian War, Thucydides said that history is a mirror that reflects the future, and by examining it we understand what is yet to come.

In terms of a methodological approach for this article, secondary research was employed through the analysis of historical and contemporary sources. The arguments are developed through examples of various historical justice systems that introduced restorative elements to resolve conflicts. The data will be presented in four sections. These correspond to different chronological eras in the fall and rise of RJ, with each signifying a crucial turn in its history, whether this means its erosion or return. The reasons that brought these changes about will also be discussed. This historical account will conclude with critical thoughts about the present and future of RJ.

The Acephalous Societies in 500 AD

According to Michalowski, human societies can be broken down into two broad historical categories: 'acephalous' (from the Greek word ακέφαλος meaning headless) and 'State'. Acephalous societies are characterised by their diffuse structure, kin-based organisation, and strong adherence to group values). They are also the earliest type of human aggregations and the only kind of community for

some 30,000 years. Arthur Hartmann claimed that acephalous societies (or non-State) can be distinguished between nomadic tribes and segmental societies; both were small, economically cooperative and relatively egalitarian, ().

Kuppe mentions three central characteristics of acephalous societies: "a close relationship between these societies and their lebensraum, a lack of organization as state and social stratification (from the point of view of western sociology), and the dealing with conflicts within a society that is not based on institutional force by the state" (Kuppe 1990:10).

Michalowski (1985) claimed that these communities managed to place constraints on potential deviants by supporting collective responsibility, and by promoting a group feeling, which reduced the likelihood of egoistic interests. Then again, if deviance did occur, acephalous societies dealt with it without a formal legal system. In fact, they regained community's lost balance by doing something either for the victim, or to the offender.

Some evidence of this can be found in the work of the historian Adamson Hoebel. Hoebel claimed that in some Eskimo villages (in northern Canada) although blood revenge was accepted in cases of homicide, it was used only rarely. Often, he said, there was no need for a community response, because the murderer discharged the victim's immediate responsibilities. According to Hoebel (1954: 83), "murder was followed quite regularly by the murderer taking over the widow and children of the victim." His study concluded that: "just as doctors are charged with keeping the human body in healthy balance, pre-modern law was to keep the social body in good health by bringing the relations of the disputants back into balance" (p. 279).

Hoebel's claim is supported by the work of historian Elizabeth Colson. In her study of the *Nuer* tribe of the Sudan, Colson claimed that if a *Nuer* was killed, consequent reaction depended on whether the offender and victim belonged to the same or different lineage, or different tribes).

Arguably, one of the best examples of ancient type of victim restoration is given by the historian Roy Franklin Barton, who studied the acephalous society of *Ifugao* of Northern Luzon in the Philippines. He claimed that: "The kin of each party were anxious for a peaceable settlement, if such could be honourably be brought about…Neighbours and co-villagers did not want to see their neighbourhood torn apart by internal dissension. Instead of feuding, claims and counterclaims were relayed by the *monkalun* [the go-between/mediator] until a settlement was achieved": 94).

In a similar vein, Michalowski (1985) claimed that there were four ways through which the distorted balance was re-established in acephalous societies: blood revenge, retribution, ritual satisfaction, and the most commonly used of all,

restitution. Nowadays, the meaning of the latter varies. For instance, it can mean: restoration, amends, repayment, compensation or forgiveness. In the ancient acephalous societies, however, where community members, 'victims' and 'offenders' conceived 'antisocial behaviour' in a fundamentally different way from the one we adopt today, restitution was understood in its fullest sense.

In particular, Michalowski argued that in these communities relationships and victim-offender interaction were personal, and usually led to strong bonds and sometimes even to reduction in deviant behaviour. Most importantly, deviance was seen as a community problem, and a community failure not simply as a matter for the offender to pay, or restore. In consequence, its recuperation required active participation of both victim and offender. The process was usually a restorative one, while the leading role of the mediator was taken up by the community through its representatives. They believed that by dealing with the offence at a personal level, the offender was often 'rehabilitated', and the potential criminal 'deterred'. On the other hand, the victim's feeling of loss was restored, and the distorted balance in the community was re-established).

The details of RJ's implementation in the justice systems of the early societies is documented in a number of other historical sources, many of which indicate that 'punishment', in today's sense, was the exception rather than the norm. For example, the *Code of Hammurabi* (c. 2380 BC), which is one of the first samples of written law, espoused the practice of individual compensation. On several occasions, this served as a substitute for the death penalty). Furthermore, in the Ninth Book of the *Iliad*, Homer referred to the case of Ajax, who criticized Achilles for not accepting Agamemnon's offer of reparation. In his criticism, Ajax pointed out to Achilles that even a brother's death may be compensated by the payment of money. It is worth noting that the word 'punishment' derives from the Greek word *pune* (ποινή), which means an exchange of money for harm done, while the word 'guilt' may derive from the Anglo-Saxon word *geldam*, which means payment (: 5).

In fact, the bulk of the available historical sources on restitution suggest that "the concept was used for both property and personal crimes" : 83). Ian Drapkin (1989) claimed that restitution was implemented in almost all ancient societies, which included property offences as well as 'crimes' against person. Moreover, according to Stanley Diamond's research on the sanctions imposed for homicide, monetary restitution was an accepted form of penalty throughout the Western world.).

Barnett also claimed that: "of 100 scattered tribal communities, as to which the information is of undoubted reliability, 73% called for a pecuniary sanction versus 17% that called for a certain number of persons to be handed over to the family of the

victim as a sanction" : 352). In addition, Stephen Shafer noted that among Indian Hindus and Semitic nations the death fine and restitution were used, and continued to prevail for centuries: "he who atones is forgiven").

Rossner claimed that a number of important principles of 'crime control' can easily be identified in the then systems of 'social control'. An example is the institution of *palaver*, which is also mentioned in Frans de Waal's book 'Peacemaking among Primates'). According to *palaver*, the offender and the victim were placed in a hut without walls in the middle of the community in order to control the dispute as well as to protect the victim against a second victimisation at the hands of the offender. In this 'vocal public dispute', Dieter Rossner claimed, we can find a clear and simple representation of a modern criminal justice system with strong elements of RJ. The only difference in this version, he said, is that "it is the act of disputing itself that resolved the conflict" : 215). *Palaver* was not about contesting the legality of the act that harmed the victim and placed the offender in a shameful position. *Palaver* was about finding out what went wrong and what the community could do to put right its failure to keep the victim safe and the offender out of trouble.

It has to be pointed out that the preference of RJ as well as its apparent success in maintaining healthy and effective 'justice systems' was favoured by the less complicated nature of the then communities and their problems. Moreover, the "citizens" were then more able to identify the benefits of 'non-violent communication' and victims/ offenders were not classified as such : 214). As Brauneck (1974) suggested, reconciliation guaranteed more social safety, stability and progress than continuing reactions in a cycle of violence. In the words of Saint Paul: "Where sin abounded, grace did much more abound" (Romans 5: 20).

To conclude, despite occasional disagreement in the literature, there is consensus that during the times of acephalous societies, RJ used to provide the main justice paradigm through which peace and order were re-established after the occurrence of a conflict. This paradigm's principal concerns were firstly to satisfy victims' needs and secondly to restore their lost power and distorted status. Special care, however, was also taken by the community to be just and beneficial to offenders. Principally, the justice system aimed at educating the deviants by speaking to their feelings, while through the victim's forgiveness and community's willingness to help, they were most often 'rehabilitated'.

In Pakistan's Pakhtun society, it has historically been divided into two categories: generally the rural areas have been described as acephalous, egalitarian groups who lived within the more structured and larger State system (see Rhaman 1995). Similarly, the northern region of Swat Pathan has also been similarly characterized as are likely other areas within Pakistan. Therefore, the concept of RJ as is known in the western world may not be as foreign as may be imagined despite cultural and religious differences.

The Middle Ages

According to historians, after the emergence of centralised rulers, acephalous societies were gradually replaced by State ones (Kuppe 1990), while at the same time, the RJ paradigm started to weaken. For instance, Stephen Schafer noted that the needs of the victims were replaced progressively by the interests of the kingdom, which became the basis for conflict resolution). In fact, the sovereign became the central leader for settling disputes, and restitution was no longer due to the victim but to the king. This development made the application of restorative practices difficult and gradually impossible. Responsibilities were no longer collective, and the obligation to conform to social rules became rather abstract. Historian Henry Maine noted: "with the coming of the 'State power' the individual was steadily substituted for the family as the unit of which civil laws take account": 78).

There is general agreement in the historical literature that in Europe, RJ started to deteriorate during the Middle Ages, and that the major change occurred in the 9th century). It is also believed that RJ's erosion as a formal paradigm for 'criminal justice systems' was complete by the end of the 12th century).

The Middle Ages are defined as "the time in European history between classical antiquity and the Italian Renaissance-from the late 5th century AD to about 1350, sometimes to the later part of this period (1100) and sometimes extended to 1450-1500 (). The Middle Ages are usually divided into two timeframes: 500 to 1350 AD and 1100 to 1500 AD). During the first period, RJ was still used in a way that benefited the victim, the offender and the society, but was no longer the main justice paradigm).

For example, in the Kingdom of England, after the Norman Conquest in 1066 AD, the system of *frankpledge* (free security) was developed in much of the country. This is described as a kind of collective bail, imposed not after the individual's arrest, but as a safeguard in anticipation of it. This approach to freedom and responsibility is evident in a law of William I: "Every man who wishes to be accounted as free shall be in pledge": 14-15). According to MacKay, it became possible to appease the feud by the acceptance of payment of composition). Arguably, during this first Middle Ages timeframe "in Anglo-Saxon and other Germanic laws, the idea of wrong to a person or his kindred was still primary, and that of offence against the common weal secondary, even in the gravest cases": 46).

Gradually, the idea of wrong to a person started to lose ground. For example, the notion of *infangthief* was introduced, which obliged offenders to make two payments of composition for injuries other than homicide: *bot* to the injured party and *wite* to the lord or king: 451). By the time of Ranulf Glanvil, whose *Treatise* was written at the end of the reign of Henry II (1187 AD), the victims' claim to *bot* was circumscribed. To conclude, during the first timeframe of the Middle Ages, victims

could still obtain compensation and restitution, but only under certain circumstances. However, hard evidence about the enforceability of these laws does not appear to be available.

During the second period of the Middle Ages, victims are said to have lost completely their place in the system of criminal justice. This change is documented in Geis' work. There, he used historical examples to show that it was during this part of the Middle Ages, when kings established their power and took the conflict-solving process away from the parties involved by creating a firm 'State'-controlled criminal justice system). For instance, in the Anglo-Saxon hemisphere, after the division of the Frankish Empire by the treaty of Verdun in 843 AD, restitution was replaced by a fine payable not to the victim, but to the king.

Many historians claim that the Anglo-Saxon and Germanic rulers of the second timeframe gradually made the administration of justice a profitable institution by taking away victims' rights to compensation, and by imposing fines that were payable to the 'State' : 358). As Pollock and Maitland quoted in their 1899 work: "the loser of stolen goods might thank his stars if he was able to get them back again, so keen was the king in pursuit of the chattels of the felons" : 495). Jeudwine gave the example of Henry III (1255 AD) who, when in need of funds, ordered his justices to impose monetary penalties : 155-156). It is said that during the 13th century, money collected from fines was equal to one sixth of the king's revenue).

Pollock and Maitland (1898: 47) said that one justification that was quoted for these changes was: "The wrong done to an individual extends beyond her own family; it is a wrong done to the community of which she is a member; and thus the wrong-doer maybe regarded as a public enemy."

In Europe, what is really believed to have caused this change was the increasing power of kingships as trans-local and trans-tribal institutions). This is mainly because they united the tribes and large areas, changing in this way the structure of societies from 'communitarian/tribal' to 'hierarchical/feudal'. For example, Barnett claimed that what helped this to happen was the ecclesiastic law of that time). This claim is also supported by Tallack, who noted that the greedy ecclesiastical powers of the time aimed to exact a double vengeance upon the offenders by taking their property, and by applying corporal punishment or imprisonment, ignoring victims completely).

Along the same lines is Braithwaite evaluation as he noted: "long before the *Inquisition*, church leaders were among those who sought to secure their power through retributive affliction on the bodies of their flock" : 7). "It was the church that established prosecution as a central authority to assert its will and church heresy. The barbarism of the *Inquisition* was justified, because 'crime' was committed not against a victim, but against the moral order of the church" :7).

From 1500-1970s AD

By the end of the 12th century, in Europe, the 'State' had taken control of conflicts). Raymond Michalowski claimed that formal law emerged as a means of controlling property and relations, and that the concept of individual property and the history of law were from then and on inseparable). As Jeremy Bentham put it: "property and law are born together and die together": 33).

In consequence, as the rights of the 'State' gradually overshadowed those of the victim, RJ ceased to play a role in the administration of justice. What also emerged from this development was the division of law between 'public' and 'private.' According to this new paradigm, 'crime' was mostly dealt with as an act against the State and the public interest, while offences against individuals' rights were pursued separately as 'torts.' The terms "offender" and "victims" started to be used.

During this period, political philosophers Jeremy Bentham (1748-1832) and John Austin (1790-1859), argued that the law is a phenomenon of large societies with a 'sovereign.' This can be a determinate person or group who have supreme and absolute *de facto* power). The laws in these societies, including our Western countries, are a subset of the sovereign's 'commands'. These are general orders that apply to classes of actions and people, and are backed up by threat of force or sanction. This imperatival positivist theory identifies the existence of legal systems with patterns of command and obedience that can be ascertained without considering whether the sovereign has a moral right to rule or whether his commands are meritorious (Johnson 1991).

Nonetheless, it is worth noticing that despite the apparent erosion of restorative practices during that time, the concept's ideals were not completely abandoned. As Weitekamp (1999: 89) pointed out: "the [restorative] system was not voluntarily abandoned by the people; it was deliberately and forcibly co-opted by the crown and then discarded." In fact, there is evidence to believe that during these times, although the restorative paradigm remained dormant and relatively inactive, it was never forgotten by the communities (Gavrielides 2007).

In fact, a change in criminal proceedings, which occurred between the 16th and 17th centuries, is considered rather important for the way some procedural features developed in a number of European countries at the time. For instance, the then German legal system developed the notion of *adhaesionsprozess* [joined process], which allowed criminal prosecution to be combined with civil claims for compensation. Today, in most criminal justice systems, compensation for damages suffered still has to be pursued through the separate body of civil law). Under Pakistani law there is provision for compensation to the victim of injury, loss or destruction, or direct family members in the case of death to the victim, but the

practice does not appear to be formalized or standardized. In fact, although striving towards reform, the current Pakistani criminal justice system can be characterized as presenting serious risks for domestic, regional and international security. The only exception is with countries that followed the *adhaesionsprozess* (including Germany). In criminal justice systems such as these, the criminal case can be combined with civil action for purposes of procedural processing.

The implications of this historical fact for modern criminal justice systems are obvious. The distinction, for example, between criminal justice systems that may combine civil action with criminal procedure and those that do not is considered one of the principal differences between adversarial (e.g., the UK, Ireland, & USA) and inquisitorial criminal justice systems (e.g., Germany, France, & Greece). The treatment of victims as parties in the criminal justice process varies significantly in these two models and the same applies for offenders (Gavrielides 2005).

However, it was Sir Thomas More (1478-1535), who, among other legal theorists of his time, spoke in detail about the need to bring restorative ideals back. In his 1515 work *Utopia*, he claimed that: "restitution should be made by offenders to their victims; offenders should be required to work for the public to raise money for the restitution payments"). More was followed by James Wilson, Cesare Beccaria, Rafaelo Garofalo, Jeremy Bentham and Enrico Ferri to name but a few.

Finally, RJ and restitution were strongly advocated in six international prison congress meetings, which took place between 1878 and 1900 [1878 in Stockholm (Sweden), 1885 in Rome (Italy), 1890 in Petersburg (Russia), 1891 in Christiana (Norway), 1895 and 1900 in Brussels (Belgium)].

According to Jacob, in the 1885 congress, the famous Italian jurist and criminologist Raffaele Garofalo (1851–1934) proposed that all nations return to the ancient concept of restitution). Stephen Schafer also claimed that, both in the 1895 and 1900 congresses, RJ was dealt with intensively). Samuel Barrows, on the other hand, reported that restitution was discussed as a new condition of suspension of sentence or conditional release after imprisonment). The members of the conferences were unable to pass any specific proposal or resolution that would have required RJ in any of these forms. However, they did manage to pass a resolution that called their respective States to increase the rights of the victim under civil law).

The Present and Future of Restorative Justice

Although at first the RJ movement was very much aligned with the Abolitionists ideals, it gradually found ways to co-exist and indeed complement the punitive criminal justice system. Before the historical account of this paper is deemed complete a few contemporary writings that led to the development of the modern concept of RJ need to be mentioned and may serve as reminder for how

countries like Pakistan might capitalize on the movement within a criminal justice system framework that is plagued with operational and capacity issues.p

Eglash distinguished three types of criminal justice: *retributive*, *distributive* and *restorative*). He claimed that there were two foci on the criminal act: deny victim participation in the justice process and require merely passive participation by offenders. The third one, however, focuses on restoring the harmful effects of these actions, and actively involves all parties in the criminal process. RJ, he said, provides: "a deliberate opportunity for offender and victim to restore their relationship, along with a chance for the offender to come up with a means to repair the harm done to the victim…": 2).

With his article *Restitution: A New Paradigm of Criminal Justice*, Randy Barnett was the first to use the term 'paradigm shift'). Barnett defined 'paradigm' as "an achievement in a particular discipline which defines the legitimate problems and methods of research within that discipline" (: 245). Barnett claimed that we are living a "crisis of an old paradigm," and that "this crisis can be restored by the adoption of a new paradigm of criminal justice-restitution": 245). In fact, in his 1977 article with John Hagel, he argued in favour of the abolishment of criminal law altogether, and suggested that it is replaced by the civil law of 'torts.' They suggested that restitution constitutes a new paradigm of justice, one that is preferable to criminal justice (ibid).

One year later, Christie, a Norwegian scholar, published an article in the '*British Journal of Criminology,'* which still provokes a number of discussions on the division of private and public law). There, he claimed that the details of what society does, or does not, permit are often difficult to decode, and that "the degree of blameworthiness is often not expressed in the law at all": 8).

The theoretical and practical developments of the 1970s brought RJ to a full circle. In this paper we have attempted to take a bold step in painting a historical picture for RJ. Through the analysis of secondary and other historical sources we argued that although the term RJ is a creation of the 1970s, the concept and practices underlying it can be traced as back as the early human civilisations and has been practiced in countries like Pakistan.

These historical traces of RJ are not limited to a few places. On the contrary, they have been with us since we first felt the need to live collectively. In fact, for a number of centuries, they constituted the dominant features of the old 'justice systems' around the world, while, occasionally, they were put aside in favour of other more punitive responses. "RJ has been the dominant model of criminal justice throughout most of human history for all the world's people": 323).

What has now been revealed is that RJ has gone a full circle and that four eras in the fall and rise of RJ through time can be distinguished. During the first era, RJ elements were predominant among the 'justice systems' of *acephalous* societies, which used to place their emphasis on restoring harm. The diffuse structure of these societies, the emphasis on social safety and the absence of a top down regulation of human affairs favoured RJ. However, during the second era of the Middle Ages, and while the acephalous societies were being replaced by 'State' ones, conflicts were gradually seen as violations not of individuals' rights, but of the king.

The philosophical School of Legal Positivism of the third era followed as a natural consequence of the conceptual developments of that time, and as the *coup de grace* for RJ. Although various examples from this period suggest that RJ was sporadically applied and not completely abandoned, the new legally positivistic framework managed to predominate. It is also worth noting that during this era RJ was put in the margins and applied only within informal structures. The ruler and top down structures that were put in place to regulate individual and state affairs kept RJ in the shadow of the law and without any official provision of resources. The community and voluntary organisations were the main drivers in the implementation seat.

Nowadays, RJ seems to have again completed its historical circle and, as a result, it has been placed back onto the criminal justice agenda. Only this time, the understanding we have of 'crime' is different. The societies of the old understood and resolved conflicts in a fundamentally different way from the one contemporary justice systems adopt. The core characteristic of their approach to 'antisocial behaviour' was its treatment as a violation of relationships. Therefore, their focus was to restore the 'broken bonds' among community members who had been affected by 'crime'. These members were not called “victims” or “offenders” but parties with a stake in a harm that occurred.

Today, delinquency is primarily seen as a violation of the law, while the priority is retribution, making also sure that lawbreakers, or other community members, do not repeat a similar offence.

Undeniably, the contemporary environments in which RJ is now implemented share few similarities, if any at all, with the old societies. More importantly, the statutory and common law definitions of 'crime' are fundamentally different and, in one way or another, have to involve 'punishment' mostly in the sense of incarceration. Therefore, it should be no surprise that the original concept of RJ was approached from the Abolitionists' perspective as a new paradigm of justice.

Nonetheless, history has witnessed a constant adaptation of criminal justice notions and practices to the realities, needs and demands of the given societies in which they are introduced. Indeed, flexibility and adaptability are key ingredients of any response to 'crime.' RJ is no exception.

As the theoretical and practical development of RJ moved away from the 1970s extremist approach and became more grounded on evaluation studies and research compromises started to take place. The above historical account of the RJ concept has been portrayed in the hope that it will lay the foundations for a more informed debate about its application and theoretical development today. RJ continues to be implemented largely in the shadow of the law and by voluntary and community groups. Conflicts remain in the hands of the powerful state.

However, while Pakistan and most other countries in the world search for cost effective crime reduction policies in a climate of austerity and a shrinking state, RJ appeals to the policy makers and the politician. For instance, the new UK coalition government only a few months after its election rushed to announce new sentencing policies that see crime taken away from the state agents comprising the criminal justice system. The December 2010 Green Paper "Breaking the Cycle" announced its intentions for key reforms in the adult and juvenile sentencing philosophy and practice (Ministry of Justice 2010). In the paper, RJ is rather prominent. As hopes are raised amongst the RJ movement, the historical learning of the fall and rise of RJ are helpful in creating a context for what is yet to come.

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