

## Rehabilitation and Reconciliation

What constitutes justice? Punishing wrongdoers? Achieving equality? Or perhaps getting what we deserve? This is a question that has fostered debate in Canadian society. The Oxford dictionary defines it as just behavior or treatment. The status quo generally defines it as punishing those who have wronged you. The Canadian Justice system is modeled around the idea that justice is the enactment of punishment as means of protecting Canadian citizens. This model however has proven itself flawed time and time again. So, how do we attain justice?

In this paper I will be stating three arguments that prove that restorative justice is a key principle of law and must be well integrated into the Canadian justice system to create a productive legal system. I will be covering the prison system, recidivism rates, and societal awareness. To preface these arguments the following terms must be defined. Restorative justice is a tool used to carry out justice by focusing on addressing the harms inflicted on victims and the rehabilitation of offenders rather than their persecution. Retributive justice is a process in which the law more solely focuses on the offender and imposing punishment. The main premise of this paper is that although the Canadian justice system does have aspects of restorative justice it is simply not as valued and imposed as it should be.

The first point I'd like to visit is the current process of the Canadian legal system. Taking a rehabilitative approach towards offenders not only benefits the offender but society and the victim, for the following reasons. The current system in which criminal offenses are brought to

trial actively dismisses victims of the crimes. Criminal law falls under the section of public law, so crimes committed are considered to be crimes not against the victim but rather the crown; *Regina v (Offender)*. Although in some cases victims can try to receive compensation through civil court proceedings it is unreasonable to create this burden considering the stressing mental health and monetary factors. Although imprisoning offenders momentarily isolates them from society they are able to enter again without having received proper rehabilitation to make their re-entry safe and meaningful. The core purpose of correctional facilities is to punish individuals, rehabilitation being an afterthought. We punish these offenders by stripping them of their natural and inalienable right to liberty. This dehumanization only further pushes a narrow mindset and creates a vicious cycle of recidivism. It demands retribution without offering transformation, without offering the opportunity to reflect and truly comprehend the weight of one's actions. Criminal sentences are short sighted and fail to account for the proceedings of an individual after they have served their sentence. This short sightedness threatens not only the mental well being of individuals who have been hurt by a crime, but society as a whole. The entire system does not provide closure nor reassurances to victims as their offender has simply been released back into society unchanged. This leads into my next point about recidivism.

When perpetrators enter the prison system they are paying their debt to society, however this debt does not reside once leaving. Finding jobs, housing, travel, etc becomes a difficult task because of the burden having a criminal record imposes. The conditions that individuals are subject to in prison stunts their ability to rejoin society as a productive member. When looking at Norway's prison system and the effect it has had on their recidivism rate we can see the stark contrast between our legal systems. Norway's system is founded on the principle of restorative

justice and seeks to view correctional institutions as rehabilitation facilities. With focuses on instilling interpersonal and employability skills the inmates are prepared to join society in a productive manner with little risk of recidivism. As of 2016 only 20% of former inmates were convicted of a new crime within five years of their last, which is considered one of the lowest rates of recidivism in the world (Janzer, 2019). Norway's system is a host for conversation and reconciliation allowing victims to recover and move on from a harm that has been inflicted upon them. This progressive system is effective as it does not allow for the harm caused by a crime to endlessly cycle through.

Restorative justice calls for discussion and empathy. The Youth Criminal Justice Act (YCJA) is a statute that came into effect in 2003, and closely follows a restorative justice approach. The objective of the YCJA is to provide meaningful consequences and keep our youth out of prison. This act directly acknowledges the detriments of incarceration and the value in reflection and discussion. It focuses on reintegrating youth into society as productive members through extrajudicial measures. A study published in 2019 found that recidivism rates amongst youth dropped from 55% to 37% after the introduction of the YCJA (“Recidivism in the Criminal Justice System”). Restorative justice values the principle of tolerance and allows insight into the nature of a crime and its effects. This principle is especially crucial considering Canada’s history of overrepresentation of indigenous groups in our legal system. The stigma around former inmates does not account for factors that lead an individual to commit crimes. Factors such as generational trauma, poverty, and substance abuse that have manifested in indigenous communities create endless ruts of crime with little to no access to rehab. When we approach these situations with restorative justice we promote political and social tolerance

enabling individuals to reconcile within the context of the crime but also within society as a whole.

Canada's traditional justice system puts far too much emphasis on retribution without acknowledging the lasting effects of incarceration not only on the offender but the victims of these crimes. The aforementioned arguments explain why this is and how taking a restorative justice approach has proven both statistically and logically to be effective in improving the outcomes of incarceration. We as a society ought to strive for reconciliation and diversifying our perspectives when analyzing our justice system. Hence, justice is attained through tolerance, reconciliation, reintegration, and reparations.

## References

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