

Restorative Justice — Alternative Approaches

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First of all, I would like to thank the organizers for inviting me to this conference to share my aboriginal perspective with you on Restorative Justice and Alternative Approaches. As an aboriginal person working in the system, all of the restorative approaches, Circle Sentencing, mediation, family group conferencing, etc. through my aboriginal eyes is basically Peacemaking. It is about sharing power and control through inclusiveness and active participation in the process of those involved. It is also about applying the principles of traditional teachings. These are not new and only for aboriginal people, they are for all people. Here I am referring to Respect, Love (unconditional love), Caring, Sharing, Honesty, Kindness, Trust and Honour. These are principles that we need to apply in our daily lives and with each other and be totally accountable for our actions and behaviour. I was aware of the New Zealand-Maori concept of justice that is based on sacred and spiritual beliefs and are very similar to North American aboriginal traditional beliefs. When I went to Australia and New Zealand, I went with an open mind to hear about the restoring of harmony and balance through accountability and responsibility in resolving disputes involving offenders, victims, families and community members throughout the process.

As you can see, the medicine wheel illustrates the need for balance in the emotional, mental, physical and spiritual elements of an individual. Through my aboriginal eyes, these elements are really what we call natural laws of Creation — this is a word in Cree that means "it is supposed to happen". When I look at these processes, I realize we all need to take risks, to face our fears, those of us who work in the mainstream system, allow ourselves to be vulnerable and to be open-minded. I know these are big challenges, and recognize we have fears, after all we are human and it is all part of the human spirit of change. We need to feel from the heart and not just say the words of the teachings. We need to set aside our masks, roles and titles and realize we can make a difference in the hearts and minds of people we come into contact with. We need to think differently from the compartmentalized linear perspective to that of intuitive, logical and rationale reasoning and in doing so, be aware of who we are, and where we came from. We need to look at our own attitudes and values and the way in which we treat people.

The Elders define world view as you can see on the overhead; in a holistic way in the circle of life. There is interconnectedness amongst all beings, the two-legged's, the four-legged's, the winged ones, those that swim, those that crawl and natural forces existing on the physical, social and spiritual realm. I am referring to the elements of air, fire, water, etc. How many of us could exist without these very essential elements?

I have been on the Parole Board almost 20 years and I have been a risk-taker in trying to bring about change. Some of you might say "you must be crazy"! and I would

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tend to agree with you. However, I have obligations as an aboriginal person to my people. I know and speak my language and am aware of the significance of ceremonies and rituals in the healing process. I come from medicine men and women who were leaders and warriors. They knew their environment; they specialized in herbs, medicine and in the fall when they had the traditional ritual dance of the Buffalo dance, it was my family, my ancestors who danced the dance of the Buffalo dance. I am privileged of having come from that kind of upbringing. I had a grandmother who lived to be 105 years old and I recall as a child growing up how she impacted on my life in a tremendous way. In other words, what I am trying to share with you is that I know who I am and I am not ashamed, nor did it ever occur to me to deny my aboriginal First Nations ancestry. I believe this is why I have not allowed the mainstream system to dampen my spirit in my attempts at working towards making changes within the Criminal Justice System. Especially, because I have faced racism and sexism. I have observed and felt the incredible anger, hurt and pain of my aboriginal brothers and sisters in the federal penitentiaries, provincial and territorial jails. Many of them come to prison not knowing about their ancestry and are ashamed of being Aboriginal. Many of them get reconnected to their background while in prison and through appropriate institutional programming, develop that hunger for reconnection with their heritage. With the assistance of Elders who work in prisons, and through learning and sharing of the traditional teachings, and through forgiveness, compassion, laughter and humour which are really survival techniques, they make changes in their behaviour and lifestyle.

I have interviewed and heard offenders say that they had come to prison to learn about their First Nations heritage. In fact, just recently I was at an institution conducting Elder-Assisted hearing training with correctional staff and applied the talking circle concept. I had never before seen the interaction that occurred that day between the correctional staff, Parole Board members and staff sitting side-by-side with aboriginal offenders. They realized that they needed to communicate in a respectful way and share their feelings. This was a good beginning leading to healing relationships with authority figures. I know how the Criminal Justice System works and I also know how it does not work. This particular model that is on the screen right now is a model that I believe is an excellent comparison of what I view as a punishment versus a healing model. I want to give credit to the Awasis Family and Child Welfare of Northern Manitoba who developed this comparative model. It is probably the best that I have ever seen in terms of comparing the mainstream and the First Nations model of justice. I might add that these two do not necessarily connect. I participate at Healing Circles and Talking Circles with aboriginal men and women and have also participated in circle sentencing. I did so because I felt, as an Aboriginal woman who worked in the mainstream system, I wanted to know what happens in these circles and also because aboriginal women had expressed concerns about the process. What I observed though, when I attended, was one of inclusiveness, respect, sharing and deep listening by everyone in the circle.

Let me share a case that I know. This individual received three years for sexual assault. When he came into the federal penitentiary, he got involved in treatment programs and was making changes in his life. The Parole Board eventually granted him a day parole to an aboriginal run treatment centre for substance abuse and sex offender treatment programming. At the treatment centre, this individual participated in a healing circle, a talking circle where it required him to be totally honest and apply the traditional teachings that I mentioned earlier. In the circle, he admitted to having other victims, and the therapist in the group reported to the authorities as required by law. The individual was

eventually charged and convicted and received an additional six years concurrent sentence. This is one example of a case where the mainstream system clashes with traditional concepts of healing. That man today is back in the community with support from his community including victims. In fact, there was a real split initially from the community members; there were those who wanted him kept in prison and those who forgave him and were willing to take him back in the community. The man eventually will be in the community when he reaches end of sentence and that was recognized by the community people themselves.

Back in 1992, the National Parole Board in the Prairie Region implemented Elder-Assisted parole hearings. The aboriginal Board Members wanted to do hearings in a culturally appropriate manner. Initially we met with a lot of obstacles until we convinced the bureaucrats and lawyers that this was possible. At the time, we faced our fears and challenged ourselves and demonstrated this concept could be accomplished without changing the law. Today, we have a supportive chairman who is prepared to do things differently and make the Elder-Assisted hearings a reality in all regions. A senior bureaucrat had told me that "I would be the one to blame if the Elder-Assisted hearings failed" and, taking his words as a challenge, we have recently began to do the Elder-Assisted parole hearings. Four months ago, we conducted the first hearings and the feedback has been very positive. The offenders felt that they were Heard, and that the people within the circle Cared and Shared openly about the changes they were making in their lives and above all, they felt Respect.

First Nations people have had shame feasts and Forgiveness feasts for a long, long time so what John Braithwaite, criminologist in Australia talks about, is nothing new for First Nations people. To illustrate this, I know of a case where an offender committed an arson offense in which three young lives met their death and that individual received a 7-year sentence. He wrote to his community that had banished him and asked for Forgiveness. The Chief and Council wrote back and said "we are not the ones you need to address, you need to address the victims family and the whole community". That particular individual did just that and he was required to have his family stand by him. I am told that there were over 500 people who were witnesses to the Forgiveness Potlatch that took place. How many of us in this audience today would be prepared to ask a whole community to forgive us for any wrong we had done? To me, this demonstrated courage and tremendous respect and strength of this young man. Today he is doing well in the community and has finished his 7-year sentence.

Years ago, I worked in Child Welfare and was assigned to work with an Aboriginal six-year-old boy who had been placed in foster homes. Twenty years later I came face-to-face with this same individual in the federal penitentiary. He had been sentenced to five years for a manslaughter conviction. Only then did I learn that he had been sexually abused during his many foster home placements. The questions I ask are : Why did the system fail him? Were there any application of traditional teachings in that system? I ask because they touch the heart and soul values of an aboriginal person.

I support the restorative approaches and I want to share with you in closing a quote from Dr. Diane Leresch's article that appeared in the Mediation Magazine in 1993 and this is what she has to say : "Peacemaking is generally not as concerned with distributive justice or 'rough and wild justice' (revenge, punishment, control, determining who is right) as it is with 'sacred justice'". Sacred justice is that way of handling

disagreements that helps mend relationships and provides healing solutions. It deals with the underlying causes of the disagreement (which often are perceived as someone not having lived according to prescribed spiritual ways). Sacred justice is going beyond the techniques for handling conflicts; it involves going to the heart. It includes speaking from the heart, from one's feelings. It is giving advice, reminding people of their responsibilities to one another. It is helping them reconnect with the higher spirits, or seeing the conflict in relation to the higher purposes. It is helping people ease, move beyond, transform the intense hurtful emotions like anger into reorienting and reuniting with that which is more important than the issues of conflict. Sacred justice is found when the importance of restoring understanding and balance to relationships has been acknowledged. It almost always includes apologies and forgiveness. It is people working together, looking for mutual benefits for all in their widest circle and I would add, in the Circle of Life.

According to the medicine wheel teachings, referring to the last overhead transparent, it illustrates, as I mentioned earlier in my opening remarks of inclusiveness, sharing power and control, through the following : Letting go of belonging, Letting go of security, Letting go of recognition and Letting go of control; that is **PEACEMAKING** and well-being for all involved.

RESPECT

LOVE

CARING

HONESTY

KINDNESS

TRUST

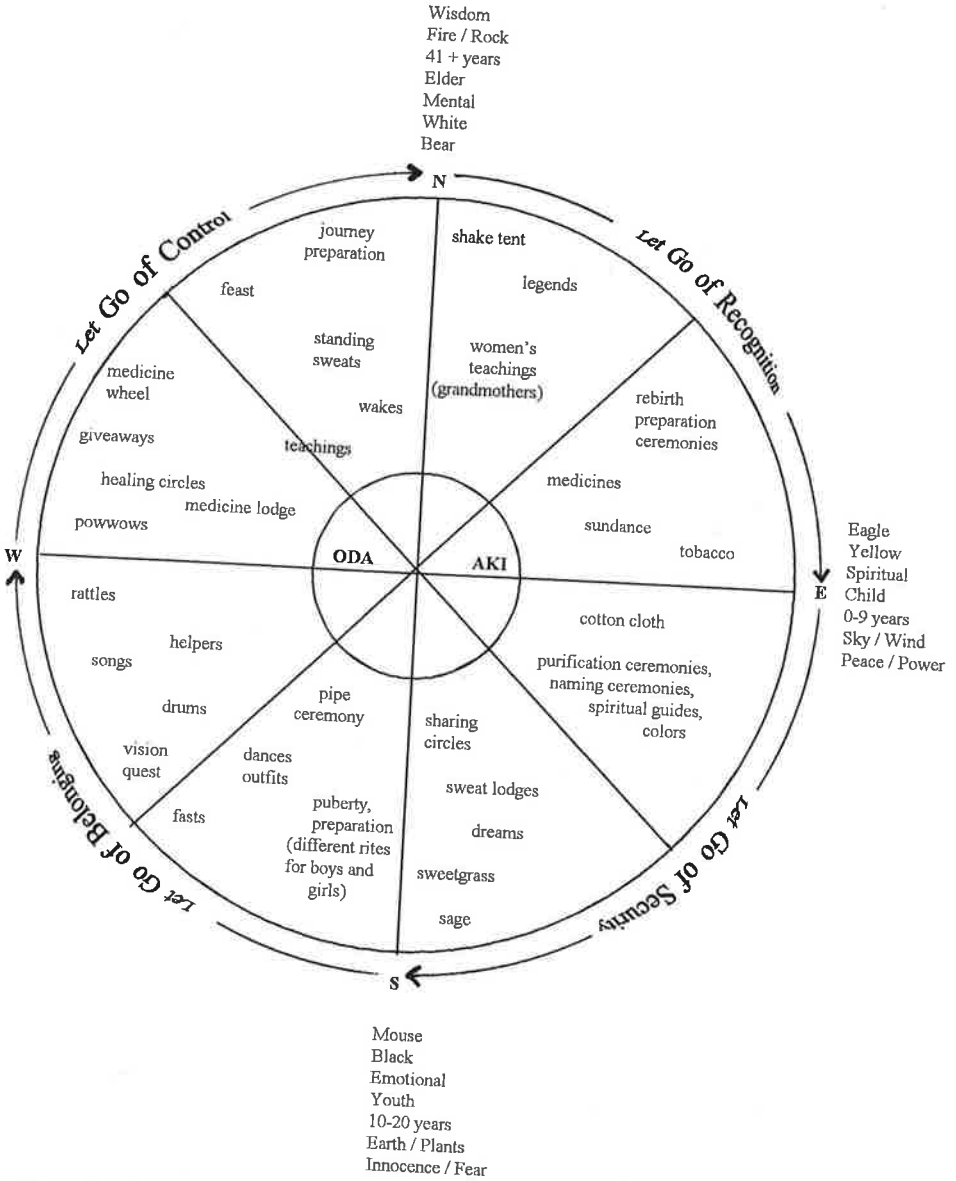
HONOUR

SHARING

First Nation Justice & Mediation Model Approach

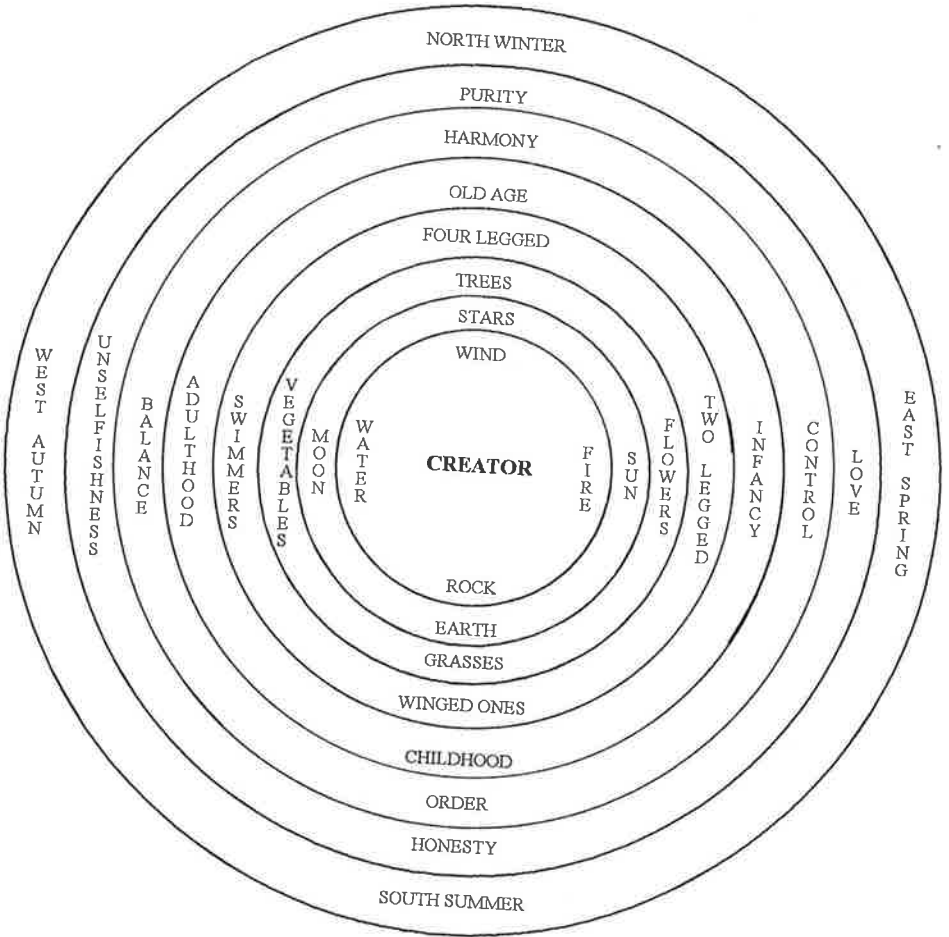
Euro-Canadian	FNJ & FM
Individual	Individual in Relationships
Vertical	Horizontal
Uses Sanctions	Compassion and Understanding
Focusses on Act	Act is a Signal of Disharmony
Adversarial	Consensus & Cooperation
Punishment	Healing
Authoritarian	Peacefulness
Coercive	Persuasive
Short Term	Long Term
Expert Discussion	Community Members
Rights	Responsibilities
Events are static and discrete	Inter-related and ever changing
Language is Noun-Based	Language is Verb-Based

SOURCE : AWASIS CHILD AND FAMILY
THOMPSON, MANITOBA



SOURCE : THE ANISHINABE MEDICINE WHEEL

CIRCLE OF LIFE



SOURCE : PHILOSOPHY OF OKIMAW
 OHCI HEALING LODGE
 MAPLE CREEK, SASKATCHEWAN