

The Restorative Justice it's not only Applicable at Criminal Law

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The application of restorative justice gradually gains more followers, especially in Spain, USA, Colombia, Germany, Brazil, Uruguay, Malaysia, Argentina, among others. However, the application approach has been oriented only towards criminal law and criminal procedure.

This has attracted our attention because we believe that it is essential to determine its mandatory correlation with constitutional and procedural law. Moreover, what is indicated becomes imperative, because we go through a legal system of a Constitutional State of Law. Consequently, the postulates and application of restorative justice should agree with what they establish, both with the constitutional right and with the constitutional process.

We point out that in a uniform manner, the precepts of restorative justice are assumed and applied, with only criminal and procedural penal orientation. However, we maintain that restorative justice, in as much as it is in accordance with the postulates contained in the Political Constitution, as corresponds to a Constitutional State of Law; it must also be applicable to all branches of law. Restorative justice is adjusted or presents a total correlation with the legal tetra analysis, that is, it becomes legal, constitutional, conventional and legitimate. That is, it even goes beyond mere legality, constitutionality and conventionality, because it lands in legitimacy or fairness.

While it is true that restorative justice had its official birth certificate as of 07/01/02, in the United Nations Organization, specifically, in the Report of the Secretary General of the Economic and Social Council, on reform of the system of criminal justice; and achievement of

efficiency and fairness: restorative justice (that is, in criminal jurisdiction), but, we believe that it would not have to take the luck of a separate string. This, in view that we maintain that restorative justice contains a support or constitutional foundation.

On the other hand, the application of the principles of restorative justice should not be focused only on penal premises. In that sense, we are respondents because their presence can be evidenced in the other branches of law, because like constitutional law, restorative justice becomes transversal to them. For which, it should be taken into consideration that the criteria for integral reparation should also be adapted to the corresponding constitutional matters.

Restorative justice proposes an important change as transcendental, in adjective properties, in which we postulate that they should not be restricted to the penal venue only. In addition, it strengthens the constitutional right, making it more just, more humane and, on the other hand, it complements the criminal law, paying a rather minimal intervention of that juridical branch. So, in the words of Antonio Beristain, we outline that not only criminal law and prison, are and must be very different institutions (and tomorrow, moreover), because the social, legal and political changes of the world undoubtedly force us to radically modify our sanctions criminal, without continuing to forget the victim.

In this sense, we agree that restorative practices do not violate human rights, on the contrary, they are based on regulations issued by international organizations that work in the field of Human Rights. In the era in which we live, influenced by neo-constitutionalism and global law,

there is more than ever a breeze of recognition of fundamental rights and fairness or legitimacy. In this sense, we are of the opinion that Restorative Justice, not only serves as a happy complement to the judicial process, but also embraces an undeniable humanizing social content.

While it is true that the application of restorative justice, is configured in a very valid option, of a complementary nature in the judicial process (the same that has been applied in a sustained manner, a decade ago in Europe and the US, for example). However, it implies that for its sustainability, consolidation and eventual configuration of restorative justice as a State policy, and even more so as a Restorative State; the inescapable application of the decisive State policies for the proper, oriented, among others, to the change of mentality, identified with a culture of peace. Which implies that it could be carried out, in a period of not so long breath? However, from now on, we welcome the eventual arrival (we repeat, as a State policy) of restorative justice and, where appropriate, of the restorative State of law.

In this sense, since restorative justice has several edges, in addition to juridical justice, it is important to take into account the psychological aspect. Thus, we have to: "In a marginal community, where certain historical, structural and cultural conditions exist, social justice representations permeated by an egocentric perspective tend to be constructed. In marginal communities, certain historical, structural and cultural conditions are present, which allow the existence of the egocentric perspective, as a way of situating oneself psychologically in the world and a moral development tending toward the pre-conventional, which would hinder understanding, implementation and applicability of Restorative Justice and its philosophy. A model of justice with a philosophy rooted in the existence of strong social cohesion, requires an intervention aimed at strengthening the social fabric of the community and in turn at the re-signification of socio-cultural conceptions related to Restorative Justice and therefore Your Social Representations".

