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From Conflict to Community: The Contribution of Circle Process in Moving from Dysfunction and Polarization to Dialogue and Understanding in Direct Public Engagement in Local Government Decision-Making

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**FROM CONFLICT TO COMMUNITY:
THE CONTRIBUTION OF CIRCLE PROCESS IN
MOVING FROM DYSFUNCTION AND POLARIZATION
TO DIALOGUE AND UNDERSTANDING IN DIRECT
PUBLIC ENGAGEMENT IN LOCAL GOVERNMENT
DECISION-MAKING**

Howard J. Vogel[†]

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ABSTRACT

The Circle process is a means of addressing conflict that offers a great deal of promise for addressing the dysfunction and

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polarization that so often marks efforts to employ direct public engagement in local government decision-making of many ostensibly democratic communities today. This article describes that promise and the structure of Circle practice which give rise to its possibilities for public planners to engage communities in the activity of public planning and decision-making that affects all members of the communities. Circles make effective public engagement possible because they are grounded in the “restorative impulse within the human heart” that can lead to collaborative dialogue for collective decision-making conducted in a safe place in the midst of conflict in a distinctive way that builds community in the process.

I. INTRODUCTION: CULTURAL CONFLICT IN DISPUTE RESOLUTION & THE PROMISE OF CIRCLES

Disputes arising from different views of moral understanding and the source of moral authority have been a prominent feature of political conflict, in recent years, in the United States. This phenomenon presents itself most dramatically in presidential election years when the cultural divide among Americans becomes the subject of the daily news cycle in the digital and print media. It has been especially intense since the presidency of Richard M. Nixon who resigned from office after being impeached by the United States House of Representatives and prior to undergoing trial on the impeachment charges by the United States Senate.¹ But it is not an entirely new phenomenon.² James Davison Hunter

1. PAULINE MAIER ET AL., *INVENTING AMERICA: A HISTORY OF THE UNITED STATES* 892–904 (2003). After having served as Vice President under President Dwight David Eisenhower in 1953–1961, and having lost the presidential election of 1960 to John F. Kennedy, Nixon was successful in the presidential election in 1968. *Id.* He was re-elected in 1972, only to resign in 1974 under threat of impeachment stemming from the infamous “Watergate affair,” which involved the burglary of Democratic Party headquarters in the Watergate Building in Washington, D.C., by people associated with Nixon’s 1972 re-election campaign, and the failed attempt to cover-up the fact that Nixon had knowledge of this illegal activity. *Id.* Nixon resigned on August 9, 1974, and was succeeded as President by his Vice President, Gerald R. Ford. *Id.*

2. The election campaign of 1800, for example, between Thomas Jefferson and John Adams, was an especially bitter and polarized campaign characterized by personal insults and predictions of national collapse depending on the outcome. Jefferson, for instance, was accused of being an infidel because of his views on the separation of church and state. *See* Joanne B. Freeman, *The Presidential Election of*

refers to this phenomenon as “The Culture Wars.”³ The stakes in these disputes ultimately involve a struggle for cultural domination, that is a struggle for survival of a particular way of life and its understanding of how life should be lived.⁴ Although this phenomenon is especially prominent in electoral contests at the state and national level, it can also break out in local government decision-making processes on routine matters such as zoning decisions pertaining to the use of land in a neighborhood. Thus, for example, disputes can arise between neighbors over such things as the location in residential neighborhoods of multiple dwelling buildings, commercial buildings, re-routed highways, re-configured parks, street lighting, half-way houses for ex-convicts, drug treatment centers, group homes for disabled persons, and many other municipal planning activities. The deep source of such disputes can be the cultural conflict that Hunter refers to but, even if such deep conflict is not explicitly present, a deeply divided and polarized set of positions can arise within a neighborhood. This can occur when the process chosen for public engagement is not able to avoid such polarization. The result is that the process itself can lead to further entrenchment of the polarized positions, making it even more difficult to engage the public in public planning. Even when planners take pains to offer time to speak to all attendees at a public meeting, this may not prevent the process from taking on the character of a zero-sum adversarial proceeding. The result is that no sense of an on-going community spirit can emerge, regardless of what is ultimately decided following public input in

1800: A Story of Crisis, Controversy, and Change, GILDER LEHRMAN INST. OF AM. HISTORY, <https://www.gilderlehrman.org/history-by-era/early-republic/essays/presidential-election-1800-story-crisis-controversy-and-change> (last visited Aug. 11, 2016).

3. JAMES DAVISON HUNTER, *THE CULTURE WARS: THE STRUGGLE TO DEFINE AMERICA* xi–xii (1991).

4. *See id.* at 52. Hunter’s thesis is that two competing views are locked in a struggle to define America around a number of political disputes over issues involving the family, education, media, and the arts, law, and electoral politics. *See id.* at 49–51, 176–287. Beneath the surface of the debate over these political issues is a deep divide between two points of view, which Hunter calls “orthodox” and “progressivist.” The “orthodox” view is grounded in an understanding of moral authority as “external, definable, and transcendent”—“sufficient for all time,” and is not dependent on the sentiments particular time. The “progressivist” view is grounded in the “spirit of the modern age, a spirit of rationalism and subjectivism”—contingent on “prevailing contemporary assumptions” to a significant degree for its expression *see id.* at 43–45.

the decision-making process. In such circumstances the opportunity to speak is accompanied by a sense of the participants that one has not been heard which, in turn, dooms the possibilities that actually exist in conflict for developing a sense of community.

The upshot of local government decision-making in such a polarized setting is that many of the participants may leave it feeling ignored or at worst excluded. Some may feel they have “won” and others that they have “lost,” when in reality the entire neighborhood has lost an opportunity to build and strengthen its communal bonds. The conflict that could have presented the neighborhood with an opportunity is instead viewed as a threat by all participants. The ultimate outcome may well be that the neighborhood has come to be viewed as a field of contending forces rather than as a welcoming place for a collaborative community engaged in collective decision-making for the benefit of all. A decision may have been reached to permit a proposed plan to go forward, but the neighborhood may now be experienced by its inhabitants as less inviting over the long run. This can lead to individuals disengaging from such processes in the future.⁵

In response to these problems in local disputes, Circles have been used by a number of innovative Canadian planners who report their experience using Circles in their remarkable book entitled *Doing Democracy with Circles: Engaging Communities in Public Planning*.⁶ This volume, co-authored by Jennifer Ball and Wayne Caldwell, two Canadian public planning professionals, and Kay Pranis, the leading American Circle trainer, sets out in brief the details of the Circle process and the experience gained by its use in a series of community planning disputes.⁷ Their experience

5. Tina Nabatchi & Lisa Blomgren Amsler, *Direct Public Engagement in Local Government*, AM. REV. PUB. ADMIN. 63S, 77S (2014), http://digitalcommons.hamline.edu/cgi/viewcontent.cgi?article=1009&context=dri_symposia.

6. JENNIFER BALL ET AL., *DOING DEMOCRACY WITH CIRCLES: ENGAGING COMMUNITIES IN PUBLIC PLANNING* (2010).

7. Jennifer Ball holds a PhD in Rural Studies with a focus on sustainable rural communities from the University of Guelph. Wayne Caldwell is Professor in Rural Planning, University of Guelph, and is also affiliated with the County of Huron Department of Planning and Development, and is President of the Ontario Professional Planners Institute, who has taught and conducted research consults on a number of research studies at the University of Guelph. Kay Pranis is a national leader in bringing Circle practice to a wide range of settings beginning with Restorative Justice in the 1990s while serving as the Restorative Justice planner for the Minnesota Department of Corrections 1994–2003. She is the most

demonstrates the possibility for creating and strengthening community by addressing conflict in the distinctive way offered by the Circle process. Ball, Caldwell, and Pranis list twenty-one different kinds of community concerns and local government disputes that can have a significant impact on the health and well-being of affected neighborhoods.⁸ They also offer five brief case studies interspersed throughout their discussion of the Circle process to illustrate the application of Circle principles in local disputes.⁹ While Circles are not the solution to all issues that can arise in society and come before local government agencies, the experience of the authors who have used Circles in such settings demonstrates several benefits that enable communities to break free of the grid-lock of entrenched adversarial positions that so often paralyzes government and frustrates citizens.

In all of the situations described in *Doing Democracy*, the challenge, as understood by Ball, Caldwell, and Pranis, comes down to this important question: “How can we [planners leverage our role in local government decision-making to] engage our work in ways that pull with rather than against our best values and the best interests of society?”¹⁰ In posing the challenge in these words, the authors identify the task that faces local decision-making as the challenge of doing justice in a way that heals the community and makes it stronger. They summarize this challenge and the promise that Circles hold for meeting it in the context of the planetary crisis that we now all face:

widely published author on the Circle process, having authored or co-authored five books, as well as more than three dozen articles on the Circle process. In addition to *DOING DEMOCRACY WITH CIRCLES* (2010), her books are: KAY PRANIS ET AL., *PEACEMAKING CIRCLES: FROM CONFLICT TO COMMUNITY* (2003); KAY PRANIS, *THE LITTLE BOOK OF CIRCLE PROCESS: A NEW/OLD APPROACH TO PEACEMAKING* (2005); CAROLYN BOYES-WATSON & KAY PRANIS, *HEART OF HOPE: A GUIDE TO USING PEACEMAKING CIRCLES TO DEVELOP EMOTIONAL LITERACY, PROMOTE HEALING & BUILD HEALTHY RELATIONSHIPS* (2010); CAROLYN BOYES-WATSON & KAY PRANIS, *CIRCLE FORWARD: BUILDING A RESTORATIVE SCHOOL COMMUNITY* (2015). BALL ET AL., *supra* note 6, at 188–90.

8. BALL ET AL., *supra* note 6, at 62–64.

9. *Id.* at 49–53 (discussing the location of a transition house for sex offenders); *id.* at 65–69 (discussing community development programs); *id.* at 82–87 (discussing lake shore water quality management); *id.* at 109–14 (discussing the conditions experienced by women in a Canadian federal prison); *id.* at 155–58 (discussing the protection of Bear Butte, a Native American sacred site in the state of South Dakota.).

10. *Id.* at 162 (emphasis added).

Communities all over the world want a justice that has been largely missing from their lives, and we want to shape our relationships with the natural world as well. We as planners play critical roles in the planet-wide changes that are occurring. One of our challenges is to figure out how we can be at the nexus of doing justice, both in rectifying harms of the past and in doing justice as we move into the future. How can our planning work increase the experience of justice for individuals, communities, groups and peoples, and the natural world? Circles provide a powerful means to do this for all of the reasons that stem from the very nature of circles. We will name four: Doing Justice by Agreeing on Values . . . Doing Justice by Including All Voices . . . Doing Justice by Seeking Common Ground . . . Doing Justice by Being in a Good Way in All Our Relations

In sum, the vision of justice that informs *Doing Democracy* in addressing local government decision-making is a vision of justice that goes beyond fairness to embrace *healing* for the community. This vision of *justice as healing*, as we shall see, is at the heart of Circle practice. To see exactly how what is claimed for Circles as a means of “doing justice” by Ball, Caldwell, and Pranis, we shall need to go inside Circles themselves to understand their distinctive approach to dialogue, their deep assumptions, and how these are expressed in their inner and outer frames. First, however, it shall be helpful to consider how and from where Circles emerged as a conflict resolution process.

II. FROM THE YUKON TO THE WORLD: CIRCLES IN MODERN LIFE AS A RESPONSE TO CRIME AND CONFLICT

The Circle process described by Ball, Caldwell, and Pranis in a planning context, as illustrated in the examples they discuss, is an old, even ancient, Circle practice of North American Indigenous peoples that offers a great deal of promise for addressing the dysfunction and polarization that so often marks efforts to employ direct public engagement in local government decision-making of many ostensibly democratic communities today. Circles for addressing conflict and harm in local communities have existed within Indigenous communities around the world for ages. The

11. *Id.* at 162–68.

Circle practice of the Indigenous people of the Yukon Territory of Canada in North America led Barry Stuart, a Yukon Territorial Judge, in 1982 to experiment with Circles for the purpose of sentencing defendants in criminal cases involving the Indigenous peoples of the Yukon. Such Circles were first called “sentencing Circles.” Over time, as the broader application of Circles became acknowledged and were brought to Minnesota by Kay Pranis, the Restorative Justice Planner for the State of Minnesota, they were renamed “Peacemaking Circles.”¹² From there they received broad application as a form of Restorative Justice (RJ) to join other forms of RJ such as Victim Offender Dialogue and Family Group Conferencing.¹³

Restorative Justice practitioners who use Circles in their work tell compelling stories of how Circles have brought healing to communities impacted by crime and wrongdoing that the conventional criminal justice system rarely, if ever, produces. In this essay I argue that what has become true of Circle practice in cases of crime and other forms of wrongdoing presents possibilities for application for undertaking successful efforts at public engagement that might otherwise be frustrated by dysfunction and polarization. Unlike the conventional criminal justice system in the United States, for example, where crime is understood as a clash between an individual accused of wrongdoing and the state, the use of Circles in indigenous communities understands the wrongdoing to have an impact on all members of the community. It views the accused as a member of the community who is in need of being restored to the community. The restoration is done through a process that confronts the wrongdoer and challenges him or her to

12. Barry Stuart & Kay Pranis, *Peacemaking Circles: Reflections on Principal Features and Primary Outcomes*, in HANDBOOK OF RESTORATIVE JUSTICE 121, 121 (Dennis Sullivan & Larry Tift eds., 2008).

13. For a brief description of the origin of RJ and its four current forms of practice, see Howard J. Vogel, *The Restorative Justice Wager: The Promise and Hope of a Value-Based, Dialogue Driven Approach to Conflict Resolution*, 8 CARDOZO J. CONFLICT RESOL. 565, 568–70 (2007). In that article, I discuss Circle process as a form of RJ practice and compare it to the other forms of such practice known as Victim-Offender Dialogue, Family Group Conferencing, and Truth Commissions, as well as offering thoughts about how a theory of Circle processes must be rooted in its core understanding of interconnectedness as a central feature of human experience. In the instant article, the discussion of the features of Circles has been adapted to the non-criminal realm of dispute resolution that arises in local government disputes and other neighborhood concerns.

take responsibility for the harm that has been caused within the community.¹⁴

This essay invites the reader to experiment with this process in public engagement initiatives. The essay sets out the promise of the Circle process and describes its structure to show how it gives rise to new community building possibilities for public planners to engage communities in the activity of public planning and decision-making that affects all members of the communities in which such planning and decision-making takes place. Circles make effective public engagement possible in the midst of conflict because they are grounded in, and call forth, what I shall call the “restorative impulse within the human heart.” When this impulse is taken seriously and planners take care to facilitate the conditions in which it can be called forth, a community can emerge from the conflict itself. This happens when the participants themselves, using the Circle process, create a *safe place* for collaborative dialogue and collective decision-making. The mark of a safe place is found in the *experience of respect* the participants receive in the Circle, which the participants themselves have created. The safety comes from within the Circle and its participants, rather than imposed from without by an expert facilitator who lays down ground rules. How this occurs is one of the most fascinating

14. Restorative Justice as an alternative approach to conventional criminal justice system in approaching crime and wrongdoing came out experiments in bringing victims and offenders into face to face dialogue conducted in Canada and the United States in the 1970s. The foundational work describing the experience of those experiments and the structure for such work is described in the 1990 ground-breaking book of Howard Zehr, now in its third edition. HOWARD ZEHR, CHANGING LENSES: A NEW FOCUS FOR CRIME AND JUSTICE (3d ed. 2005) [hereinafter ZEHR, CHANGING LENSES]. Along the way from his first edition to his third of this book, Zehr also wrote a short seventy page book in which he offers a minimalist definition of Restorative Justice as follows: “Restorative justice requires, at a minimum, that we address victims harms and needs, hold offenders accountable to put right those harms, and involve victims, offenders, and communities in this process.” HOWARD ZEHR, THE LITTLE BOOK OF RESTORATIVE JUSTICE 35–37 (2002) [hereinafter ZEHR, LITTLE BOOK]. The three focal points in this definition: victims, offenders, and communities, are understood as being three focal points within the larger community in which the crime or wrongdoing occurred, all of which are intimately related with each other. In taking the larger community into account as the context for RJ practice, Zehr recognizes that crime involves a damaged relationship between victims and offenders, which takes place within the context of communities that also experience harm as these communities become aware of these offenses.

features of a well-constructed Circle. It arises from what is discussed below as the *inner and outer frame of Circles*.

Underlying the Circle process are a deep set of assumptions about human capacity and human possibility that I shall refer to as the “Wager of Circle Practice.”¹⁵ When successful, this wager is repaid by the emergence of the restorative impulse of the human heart to collaboratively connect with others in healing the conflict and any harms it may have caused. As we shall see, it is the fact of this impulse as an aspect of human nature that gives rise to and is expressed in the Circle wager.

III. FROM DIALOGUE TO CONVERSATION ON THE ROAD TO COMMUNITY: THE PROMISE OF CIRCLES

The Wager of Circle Practice is rooted in a set of deep assumptions about human capacity for entering into community in the very midst of conflict, which in turn, are rooted in a particular view of the nature of reality and the human condition. These core assumptions may be summarized as follows: “every human being wants to be connected to others in a good way” and in a “safe place” we are able to take action through dialogue to build community so that all life might flourish.¹⁶

If one word were chosen to capture the core of the Circle wager, it is that everything is *interconnected*. Dialogue entered into in the truly open spirit made possible in a safe place for dialogue is the living heart of Circle practice. It is grounded in the recognition of the interconnectedness of those involved, and that human flourishing best occurs in a community marked by a “culture of connectedness” where dialogue is practiced by participants with deep respect for each other.¹⁷ This leads to a different approach to

15. The description of the “Wager of Circle Practice” in this essay is an extension of a similar insight about how Circle practice illustrates what I have called “The Wager of Restorative Justice” in RJ work that addresses crime and other forms of wrongdoing. Vogel, *supra* note 13, at 582–87. In the current article, I develop this discussion for application in direct public engagement in local government as an expansion of what was briefly suggested in the earlier article concerning the possibilities for applying the experience of RJ practice gained in a criminal justice setting to the many forms of conflict that arise in non-criminal proceedings of conflict over decision-making in the civic life of a community.

16. KAY PRANIS ET AL., PEACEMAKING CIRCLES: FROM CONFLICT TO COMMUNITY 9–10 (2003).

17. This emerges as a key theme for Howard Zehr in the third edition of his

dialogue within a Circle—in fact dialogue may not even be the best term. An exchange of views in a setting marked by the adversarial clashing of positions expressed in point-by-point disputation common to contested hearings is not possible in a Circle. Nevertheless, Circle does not quash or even discourage the expression of deeply held views and deeply felt emotions—rather, it offers a safe container in which they maybe expressed. A better way to describe what occurs in Circles is to say that the Circle process evokes a dialogue that takes on the character of a *conversation* rather than an argument. Indeed, it can foster a *public conversation* that can lead to collaborative collective decision-making.

To foster a conversation in public life in a situation of polarization is what often defeats attempts at public engagement. But such conversation is much needed today. What might a *public conversation* dedicated to collaborative collective decision-making look like? It is often said that we need to have “dialogue” with those whom we are in deep disagreement in public life if we are to share in the blessings of peace in our world. Taking this seriously can lead us to seek to establish and maintain an extended conversation with each other concerning how all life may flourish rather than how some may flourish at the expense of others. This means that whenever we meet each other for dialogue we need to be devoted to the effort of *fostering a conversation* between ourselves. To say that the primary effort of each meeting for dialogue is to *foster* a conversation may seem odd. Yet, as we all know from experience, the establishment and maintenance of a public conversation concerning the larger ethical challenges we encounter in the daily life of the society we share, in which the conversation partners actually *engage* each other in *committed argument*, rather than simply “giving their opinion” or “sharing their view” is one of the most difficult tasks in modern American public life. Acquiring skill in doing this, however, is critical for those who lay claim to a responsible life in our life together as citizens of a democratic republic. What this entails is the establishment and maintenance of a dialogue that may be called a *disciplined exploratory conversation*. What does such a conversation look like?

- 1) *Conversation*: Engaged with the Other in a shared activity; speaking in one’s own voice and listening with an

ground-breaking book. ZEHR, CHANGING LENSES, *supra* note 14, at 277–78. See also ZEHR, LITTLE BOOK, *supra* note 14, at 35–36.

attentiveness and openness to the other in a way that includes a willingness to being changed by what one hears. This involves risking change in one's self and views while remaining committed to the value of this process. This is a collaborative rather than an adversarial process. It is not about "scoring points" against our dialogue partners as opponents.

- 2) *Exploratory*: A journey, not a destination; searching the avenues of inquiry open to us without demanding "answers" that are necessarily "right" or even "plausible," yet open to the emergence of novelty both within the conversation and within ourselves. This involves entering the conversation with an air of expectancy but remaining open to leaving it with continuing doubts.
- 3) *Disciplined*: Pursuing purposeful continuity; not simply and casually declaring our views but engaging others in their response to our views. The purpose here is to move the conversation forward, moving from where it has been and toward where it seems to be going, by contributing to the determination of where it goes. We are seeking freedom within discipline in our conversation like a concert pianist who works within the limits of the instrument and the composition and tries to realize them in a new way that speaks to the experience of both the performer and the audience.

A key assumption of this approach is that the conversation in which we are invited to embark—a journey of public dialogue—is one in which the activity of conversation is viewed as valuable in and of itself—it is how we constitute a community among ourselves. We may come to some settled judgments along the way, some of which may be surprising to us in terms of who we have been, but that is not the primary purpose of our activity. How might we adopt such an approach? Circles, and the wager about human capacity on which they are based, offer a promising possibility.

IV. THE DEEP ASSUMPTIONS OF THE WAGER OF CIRCLE PRACTICE ON HUMAN CAPACITY & POSSIBILITY

Earlier I noted that Circle practice is built on a *wager* about the possibilities for building community out of conflict through dialogue that calls forth the *restorative impulse* in the heart of every human being—the taproot from which the deep assumptions,

commitments, and practices of Circle justice spring.¹⁸ These deep assumptions are most clearly expressed in the very first pages of the foundational text on Circle practice co-authored by Kay Pranis, Barry Stuart, and Mark Wedge entitled *Peacemaking Circles: From Conflict to Community*.¹⁹ A compact summary of the foundation, structure, and process of Circles that is derived from this work is set out in the Appendix at the end of this essay. I have attached that Appendix in full recognition of the danger that readers will look at it as a “tool-box” that can simply be opened and put to use in conflict that might occur during direct public engagement. To the contrary, the social healing potential of Circle practice, especially in addressing systemic structures of conflict that may have arisen within a community over time or around a particular issue that requires a collective decision-making affecting that community, requires deep commitment to multifaceted work over a sustained period of time surrounded by patience to insulate the process from the demands of efficiency that have corrupted mediation in its court-connected context. With that being said, the summary statement on Circles in the Appendix has proved useful as a set of entrance points for moving students in my course in the Dispute Resolution Institute so that the class itself is utilized as the way in which we take up the study of Circle practice. It begins to bear fruit after many hours in extended class sessions of three hours each or more, rather than in one fifty-minute class period repeated several times a week. The discussion below may be viewed as something of a further elaboration of the five points set out in the Appendix that I have gleaned from the work of Pranis, Stuart, and Wedge.

In their description, the authors discuss the application of the indigenous practice of talking circles as a useful process for addressing conflict. In the opening chapter they set out a claim about the underlying world view and values that inform the practice before turning to what this leads to in the practice of

18. See *supra* text accompanying notes 14–15.

19. PRANIS ET AL., *supra* note 16, at 9–10. This important volume informs the work of Circle practitioners in many settings across the world today. It has led to a number of books on the experience gained in these settings grounded in the principles set out in *Peacemaking Circles*. Living Justice Press, the non-profit publisher of *Peacemaking Circles*, for example, has published seven titles on the Circle process as employed in a variety of settings, including work with urban youth and in schools. For a list of these publications, see *id.*, at 277. Alternatively, visit www.livingjusticepress.org.

conflict resolution through peacemaking circles. They do so in a set of four core assumptions, within which is embedded what I referred to earlier as “The Wager of Circle Practice” as follows:

- 1) Every human being wants to be connected in a good way.
- 2) Everybody shares core values that indicate what being connected in a good way means.
- 3) Being connected in a good way and acting from our core values are not always easy to do especially when conflicts arise.
- 4) In a safe place, we can discover our core values, and as we do, we uncover our deep desire to be connected in a good way [and become able to act on that desire in order pursue social healing].²⁰

These four deeply interrelated statements express the core claim of Circles, the interconnectedness of life, and shape the practice of dialogue as practiced in Circles. They express the audacity of the wager by making clear that Circles endeavor to actively foster the vision of reality embedded in the Circle wager in the midst of conflict. In sum, the promise of Circle practice in instances of conflict is rooted in the hope that community and shared life in which all may flourish can emerge through the practice of Circle dialogue carried on in the very midst of conflict, rather than in the denial or negation of the existence of such conflict.

The hope for shared life together, expressed as an ontological reality and a normative imperative in the Circle wager, and the deep assumptions associated with it, point to the need for a paradigm shift from the ideas surrounding the conventional approach to conflict and wrongdoing and its redress. In the context of the criminal justice system, Pranis, Stuart, and Wedge describe how the use of Circles represents a paradigm shift that offers an alternative to the conventional understanding of the role of the state and the meaning of justice in the criminal justice system—but it also departs from the understanding of justice in the civil legal system as well. Pranis, Stuart, and Wedge describe this paradigm shift as follows:

20. PRANIS ET AL., *supra* note 16, at 9–10.

- 1) from coercion to healing;
- 2) from solely individual to individual *and* collective accountability;
- 3) from primary dependence on the state to greater self-reliance within the community; and
- 4) from justice as “getting even” to justice as “getting well.”²¹

Addressing conflict out of the stance indicated by this paradigm shift, through the practice of the distinctive form of dialogue that is the hallmark of Circles, means that Circle practice offers a *safe place* in which people in conflict with each other may gather and collectively engage each other in order to undertake *dialogic acts of hope in the wilderness of conflict* that can lead to community because of their dialogic engagement in the midst of that conflict. Such dialogic acts of hope are a manifestation of the paradigm shift in action. Because this paradigm shift holds within it the possibility for addressing crime and wrongdoing within a community context that builds up the community, it holds promise that goes far beyond the realm of addressing crime and invites us to explore its possibilities in highly polarized settings of local government decision-making.

How such promise and possibilities of Circle dialogue might occur requires that we look carefully at what Pranis, Stuart, and Wedge refer to as the “inner” and “outer” frames of Circles. In the inner frame of Circles, we find the wager and the deep assumptions most critically embraced in an operational way. The outer frame is but a structure for ordering the commitments that the inner frame brings to the Circle-style of dialogue. As we shall see, the potential for a community to emerge among participants in Circle, inheres in nurturing the integrity of the “inner frame” of the dialogue in Circles given close attention by Pranis, Stuart, and Wedge,²² and the way in which this inner frame grows out of the shared work on values that is at the foundation of Circle practice.²³ This makes the practice of dialogue in Circles the quintessential example of what dialogue in the midst of community conflict might become, and what it might lead to when practiced in collective collaborative decision-making around issues that affect the entire community.

21. *Id.* at 10–21.

22. *See generally id.*

23. *See id.*

V. THE INNER FRAME OF CIRCLES AND THE POTENTIAL FOR THE TRANSFORMATIVE PRACTICE OF CIRCLE DIALOGUE—THE GUIDANCE OF THE MEDICINE WHEEL

In describing the inner frame of Circle practice, Pranis, Stuart, and Wedge call upon the guidance of the medicine wheel as an important resource for their task. Working with Indigenous peoples and others in both Canada and the United States has led them to draw on the medicine wheel's wisdom for guidance in shaping the inner frame of Circles in their practice. A further note needs to be made on the danger of the conventional approach to direct engagement for decision-making in local government settings when professional planners, employed by the government as experts, are permitted to take on an adversarial character. They can potentially serve the entrenched structures of dysfunction and polarization that are extant in the community, as well as any structures of systemic domination and oppression. This can occur even when reference is made to the medicine wheel in such a process, for the conventional approach can undermine indigenous tradition, rather than learn from it.²⁴

The medicine wheel is an important part of the tradition of many of the indigenous peoples of North America. For those who take it seriously within their tradition, it is filled with and expresses an enormous store of wisdom that is a guide to understanding the meaning of the cosmos and what humans are called upon to do to maintain the integrity of themselves and the cosmos in relation to each other. The tradition of the medicine wheel includes the truth that to live in a way that is faithful to the many teachings bound up in the wheel is a task so vast that one can spend a lifetime of study and reflection on the medicine wheel without exhausting its capacity for illuminating the understanding of those who do so.²⁵

24. For a vivid description of how master stories can dominate or subvert the story of another people, see Patricia Ewick & Susan S. Silbey, *Subversive Stories and Hegemonic Tales: Toward a Sociology of Narrative*, 29 L. & SOC'Y REV. 197 (1995).

25. I have learned this from listening to many Dakota people who are indigenous to Minnesota where I live, for whom the medicine wheel is an important part of their tradition. Among those who have been especially helpful is my former law school colleague Angelique A. EagleWoman (Wambdi WasteWin), Dean, Bora Laskin Faculty of Law, Lakehead University. Dean EagleWoman is a member of the Sisseton-Wahpeton Dakota Oyate of the Lake Traverse Reservation on the western border of Minnesota.

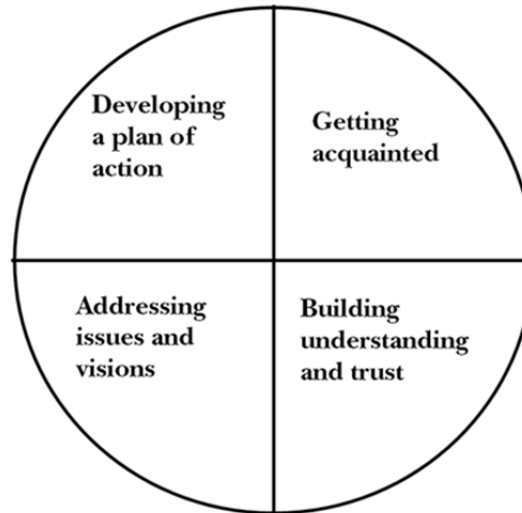
The medicine wheel, in its simplest form of expression, is described as a circle with four equal-sized quadrants inscribed within the circle. The circle is dependent upon the four quadrants, and each of the four quadrants is dependent on each other—they are all related in a balanced harmony. The unity of all depends on the diversity of the quadrants, and the integrity of each of the quadrants depends upon the unity of all. This image of holistic balance and harmony is thus both a depiction of reality and what the indigenous people who take it seriously are called upon to do. They are called upon to recognize their relations within the universe—including the plants, animals, and minerals of the land on which they reside—and to foster the well-being of all. To live in this way is to foster the well-being of both ourselves and our communities.²⁶

Pranis, Stuart, and Wedge draw upon the image of the medicine wheel to describe the distinctive practice of dialogue in Circles. They do so to emphasize that Circles focus on building relationships *before* going on to identify issues and create plans of action. Problem-solving is not minimized; rather, it is grounded in relationships. Therefore, relationship-building is the first task undertaken within Circles. This is done by focusing on building relationships as the first subject of dialogue before addressing plans of action. As such, it is a striking departure from typical problem-solving approaches, including many of those associated with the conventional forms of Alternative Dispute Resolution (ADR). In Circles, the participants start out simply by meeting one another and taking time to get acquainted, for the purpose of building relationships and trust. Based on this foundational relational work, Circle dialogue can eventually expand to address the questions of individual and shared vision, as well as issues that have emerged in a particular dispute. Only then is the Circle ready to move into developing plans for implementation with a sense of unity. The deep commitment to building relationships is the source of the transformative potential of Circle practice as a form of conflict resolution. The dynamic inner frame of Circle practice that gives priority and emphasis to building relationships before laying

26. This understanding has been gained from experience in a dialogue I was privileged to participate in on cooperative stewardship with Native people, archaeologists, and government officials in Minnesota, who today are seeking to establish a collaborative relationship on how to recover, preserve, and protect the thousands of Indian burial sites in Minnesota.

foundation for taking action is portrayed through Pranis and her colleagues' adaptation of moving clockwise on the medicine wheel as seen in the following diagram.

BALANCING RELATIONSHIP-BUILDING AND PROBLEM-SOLVING²⁷



As the process moves clockwise around this adaptation of the medicine wheel from “Getting acquainted” to “Developing a plan of action” the following activities take place:

- 1) *Getting Acquainted*—Inviting the Whole Person into Circle: First step in recognizing and recovering the deep interconnectedness of human life.
- 2) *Building Understanding and Trust*—Strengthening recognition and recovery of human interconnectedness as a platform for shared action.
- 3) *Addressing Issues and Visions*—Addressing the problem in the context of vision that takes the underlying conflict which gave rise to the dispute seriously—Addressing the dispute within the community which is emerging from meeting, getting acquainted & building understanding and trust.
- 4) *Developing a Plan of Action*—Taking action to resolve the wrong and its destructive impact as expressed in the dispute as well as building something desired to address the conflict out of which the wrong/dispute arose. This

27. PRANIS ET AL., *supra* note 16, at 142 (diagram reprinted here with permission).

action springs from the emerging community and strengthens both the community and its members.

The guidance of the medicine wheel is carried further by the fact that the inner frame of Circles invites participants to enter the Circle and engage in dialogue as *whole persons*—bringing their *head* with its mental and intellectual processes, their *body* with its physical processes, their *heart* with its emotional processes, and their *soul* with its spiritual processes. Everyone is invited to enter the Circle as an equal in the fullness of their personhood.²⁸ The members of the Circle become capable of *facing the truth as whole persons with courage in the company of others*—including those with whom one might be in profound conflict or disagreement—when they address conflict and the possibility of collaboratively creating community in the midst of conflict as an expression of open dialogue between whole, respected persons.

Pranis, Stuart, and Wedge observe that while the values and guidelines for Circle dialogue are a collaborative, creative product of each Circle in its work, certain values tend to recur in the work of quite disparate groups.²⁹ They list ten values that are often expressed in Circle work: respect, honesty, humility, sharing, courage, inclusivity, empathy, trust, forgiveness, and love.³⁰ These values are the foundation of Circle work. The depth and breadth of the values and their central place in Circles marks Circle dialogue as quite different in substance, if not in ultimate intention, from

28. Here again the cautionary point made earlier, about using descriptions of Circle practice, such as the Appendix to this article, is worth repeating. The compelling experience of the speaker being listened to with full attention and offered respect by the listener in a well-formed Circle cannot be described in a way that captures that experience because it is so particular to the participants of a particular Circle. Various exercises are used in Circle training that serve to invite participants into this experience bit by bit. The concentric circle exercise, in which two circles of chairs are arranged facing each other with one ring asked to speak on a set topic for three to four minutes while the occupants in the other circle simply listen, after which time period the speaking and listening roles are reversed, following which each occupant of a chair in the outer ring moves one chair to the left to repeat the process with a different topic and different partner serves a compelling introduction to the experience of Circles when practiced for an extended period of time, as for thirty to sixty minutes. This practice has been handed down among Circle trainers.

29. For an excellent extended discussion on the central place of values in the Circle process, see Kay Pranis, *Restorative Values*, in HANDBOOK OF RESTORATIVE JUSTICE 59 (Gerry Johnstone & Daniel W. Van Ness eds., 2007).

30. PRANIS ET AL., *supra* note 16, at 33–45.

other ADR processes. Thus, Circles are built on a shared substantive vision of *justice as healing in community* with concrete features that are identified, embraced, and reaffirmed continuously in Circle dialogue. The guidelines for dialogue (one of the five features of the outer frame of Circles discussed below) are constructed by the participants in the Circle on the shared value foundation they previously created collectively in the Circle. This shared value foundation is, in turn, nurtured and expressed concretely through observance of the guidelines adopted by the Circle participants. In this way, the inner and outer frames are integrated in the distinctive Circle practice of dialogue.

To sum up, Pranis, Stuart, and Wedge note that the inner frame of Circles is completed by the generation, through dialogue of “shared values” by the Circle participants which “give rise to circle principles” that “form the basis of circle process” . . . “expressed through circle guidelines” developed by the group that “reaffirm [the] shared values” of the group to guide its dialogue.³¹ This dynamic flow of energy within the inner frame is the vortex out of which community can emerge through open dialogue in the midst of conflict. What emerges through patient practice, guided by this inner frame of Circle process, is a plan of action in which values-based dialogue is the foundation of practice and is addressed at every step in the process.³² What also emerges out of this shared work is full investment by the group in any plan of action developed, for such plan is itself an expression of the relationship the members of the Circle have built through dialogue with each other throughout the process. This is most helpful when it comes to the task of plan implementation.

VI. THE OUTER FRAME OF CIRCLES—A STRUCTURE FOR OPEN DIALOGUE

The outer frame of Circles provides the basic structure within which the inner frame is developed and fostered. It is composed of five features that may be observed from outside Circles, even if the inner frame content is invisible to external and uninvolved observers. The five features that establish the outer frame are:

- 1) Ceremony;
- 2) Guidelines;

31. *Id.* at 104.

32. *Id.*

- 3) Talking Piece;
- 4) Keeping/Facilitation; and
- 5) Consensus.

These five features of the outer frame serve as the externally observable container of the deep assumptions, and the inner frame that shape the practice of Circle dialogue as a potentially transformative practice, embodied and expressed through Circle practice. Adoption of the trappings of the outer frame, without the deep work of the inner frame is a false appropriation of the Circle process and unlikely to bring the results that depend on building relationships of trust between people who are in conflict. In addition, it should be noted that despite the essential character of the aforementioned five features, each is shaped by the action of the Circle participants. Thus, the kind of ceremony, content of the guidelines, identity of the talking piece, role of the keeper who facilitates, and the consensus developed in the Circle are all a product of, and continuously shaped by, the on-going dialogue within the Circle.

As I have already noted,³³ description of Circle process on paper, as I am doing here, does not do justice to the character and quality of the process. Experience is the true teacher of Circle process. Nonetheless, it may help to add a few comments on the “guidelines,” “talking piece,” role of the “keeper,” “consensus,” and “ceremony”—the five features of the outer frame listed above—to suggest how the outer frame works to provide a safe place for the practice of dialogue in Circles.

1) GUIDELINES: The guidelines for dialogue constructed on the shared foundations of the values embraced by the group tend, like the values themselves that emerge in Circles, to recur from group to group. Pranis, Stuart, and Wedge identify six guidelines as essential. They are:

- a) Respect for the talking piece;
- b) Speaking from the heart;
- c) Speaking with respect;
- d) Listening with respect;
- e) Remaining in the Circle; and
- f) Honoring confidentiality.³⁴

33. See *supra* notes 19, 27 and accompanying text.

34. PRANIS ET AL., *supra* note 16, at 81–82.

If one were to summarize these in one word, they might all be said to be a subset or important detail of the value of “respect” writ large. Thus, they resonate closely with Howard Zehr’s understanding of RJ practice who notes that if he were to single out one value as a hallmark of RJ practice, it would be *respect*.³⁵

The Circle guidelines are constructed on the foundation of shared values developed by the participants of the Circle. Since these values are part of the inner frame, the guidelines play a special role in providing a bridge between the outer frame and the inner frame. When this bridge, from the values of the inner frame to the guidelines of the outer frame, is well constructed, the spirit of the inner frame infuses the features of the outer frame and helps avoid a hollow mechanical practice of the features of the outer frame.

2) TALKING PIECE: The talking piece supports the meeting of participants as equals, each valued for the contribution that only they can bring to the dialogue. The talking piece moves clockwise around the Circle to provide the focus for the listeners’ attention and to invite the holder of it to offer whatever he or she might wish to offer to the dialogue. It establishes the Circle as a place where point-by-point exchanges and disputation does not occur. The use of the talking piece is a manifestation of the view that in the Circle, the wisdom called forth in dialogue comes out of the collective collaborative work carried out in this way of speaking—most often this occurs through stories that are evoked by the process. This is not done to avoid conflict, but rather to invite all to share what they wish to share in a setting in which all other members of the Circle offer back their undivided attention as they listen. This empowers speakers and it invites storytelling. In doing so, Circle practice with the talking piece honors participants and empowers them to speak in their own voice in a setting where they experience respect as they do so. It is important to point out that in this setting a pass, without speaking at all, is considered to have equal value with words that might be offered verbally by others when the talking piece comes around to them. Thus, whatever comes from a participant while holding the talking piece is met with the same

35. ZEHR, CHANGING LENSES, *supra* note 14, at 278 (emphasis added); ZEHR, LITTLE BOOK, *supra* note 14, at 36.

measure of equal respect given to spoken contributions to the dialogue.³⁶

3) KEEPER: The keeper is a role that can be shared by several in the Circle and may change from one person to another over time. The keeper is responsible when necessary for calling the participants back to the shared values and the guidelines for the Circle that the members worked together to create in earlier rounds. At the opening of a Circle session, the keeper may offer a question or invite a comment on the process and/or the subject matter that has brought the participants together in the Circle. Thus, the keeper's role is more in the nature of facilitating the Circle in a way that is quite different from various ways in which a mediator in conventional ADR practice operates.³⁷ The keeper does not operate in a neutral context. Instead, the keeper—who has participated as an equal with other members of the Circle in establishing the shared values of the Circle and the guidelines for the dialogue based on those values—facilitates Circle dialogue in a way that invites and calls participants to dialogue practice that is faithful to, and expresses, those values and guidelines. This is another sense in which the Circle process is *value-based dialogue* in a deep way. The keeper's facilitation is thus shaped by what the Circle has created in its dialogue. As successive rounds are made, the keeper honors the Circle-generated values and guidelines by offering questions and comments that invite the members to address various aspects of the subject matter that has brought the participants together.³⁸

4) CONSENSUS: In reaching for a sense of unity, the Circle embraces a decision-making model of consensus that is not one of voting by either a majority or in unanimity. Rather than unanimity, Circles work toward *unity* in creating a plan of action. This may mean that some in the Circle do not fully agree with a plan of action, but they are nevertheless in unity with whatever plan of action has emerged in the Circle and willing to see it put into practice. Likewise, the Circle respects each individual and therefore

36. See PRANIS ET AL., *supra* note 16, at 93–103 (for further details on the talking piece).

37. See Leonard L. Riskin, *Understanding Mediators' Orientations, Strategies, and Techniques: A Grid for the Perplexed*, 1 HARV. NEGOT. L. REV. 7 (1996) (for an often cited description of the various ways a mediator may facilitate a mediation).

38. See PRANIS ET AL., *supra* note 16, at 82–93 (for further details on the distinctive form of facilitation practiced by keepers).

may delay putting a plan of action into effect over the strong objection of one of its members who is unwilling to stand aside from the Circle taking action.

5) CEREMONY: Ceremony is used to open and close a Circle. This may be a reading, a poem, or a ritual, including a check-in around the Circle. It could even include images or music shared in the Circle. Ceremony marks off the Circle from everyday experience. Participants come to the Circle from their everyday lives, and they will return to those lives when the Circle closes for the day. Since Circle practice nurtures and promotes engagement of the participants from their best selves, ceremony can emphasize that, as well as serving to acknowledge that in our everyday lives we do not always encounter others from our best selves. Thus, opening ceremonies serve to call participants to dialogue that springs out of their best selves, while the practice of both opening and closing the Circle with ceremonies acknowledges that in our everyday lives we often do not speak or take action out of our best selves.

In light of what I have said about the five features of the outer frame, it should be clear that, ultimately, the shared collaborative work of the participants in the inner frame is what creates the trust that makes any particular Circle a safe place for dialogue about conflict. But the outer frame can set up the beginning parameters in which that inner framework can proceed and bear fruit.

VII. CONCLUSION

In sum, the practice of dialogue in public engagement initiatives in the distinctive manner found in Circles discloses the possibility for building community in the midst of conflict over public planning, in which individuals are respected both for who they are as well as for their membership within the community. The touchstone of the community waiting to be born, as well as the way toward the birth of that community, is found in Circle dialogue in a way that faithfully expresses the deep premise of the Circle wager that everything is interconnected and that we belong to one another. The practice of dialogue in this way calls forth the *restorative impulse* in the heart of each member of the Circle, and opens up the possibility for community deeply shared. This vision of hope holds out the possibility that public engagement, practiced in a contextually sensitive way, and rooted in a set of shared values among the participants to the dialogue, can be socially transformative of the conflicts that are the occasion for its practice.

Circles are not the “the answer” for addressing all conflicts.³⁹ But public engagement, practiced with the seriousness that Circles bring to that practice, opens up the possibility of starting the journey toward some measure of healing that can help people to live beyond the polarization and dysfunction that so often burdens our common life even if that does not bring about agreement of people who are in deep disagreement with each other. Rather, the success of public engagement in Circles is best measured by whether a particular instance of its practice has offered an opportunity for the experience of some measure of community to emerge in the midst of disagreement even in cases where no complete agreement is forthcoming. This alone can make Circles worth the effort of creating a safe place in which open dialogue can take place, and the truth of our differences can be honestly faced.

When public engagement in Circles is practiced in this way, it can unleash the transformative power of dialogue. If we are able to experience that power in our practice of Circle dialogue, it can make us all midwives to the birth of the spirit of community in our midst in a way that embraces rather than extinguishes our differences. In Circles, the differences between us, and the conflict that so often arises out of those differences, are neither avoided nor suppressed. Rather, these differences, and the conflict they spawn, become the *opportunity* for collaboratively working, through dialogic acts of hope that can give birth to community, in the very midst of the conflict without erasing our differences. So understood, Circle dialogue is an invitation borne along on the hope that we can enter into conversation in the midst of conflict, in a way that can enable us to both face the truth and trauma of the past, as well as being open to healing the burden of that past in the present that we share. Circle dialogue understood in this way demonstrates the far-reaching potential of public engagement to offer hope that we, together in dialogue, may lift the heavy burden of human history and open up a future in which all life might flourish. Circle dialogue in its practice is therefore both a means for pursuing that vision and a present realization of it. It discloses that we are embarked on the journey of dialogue that embodies our interconnectedness as it moves us toward its fuller embrace of that fact in our work together along the way.

39. Kay Pranis is always quick to make this observation when speaking about Circles.

APPENDIX—CIRCLES: A PRACTICAL PROCESS FOR DIALOGUE THAT
BUILDS COMMUNITY⁴⁰

1.) Circles are *a way of bringing people together—of creating community—in a setting and through a structure in which:*

- “Everyone is respected;”
- “Everyone gets a chance to talk without interruption;”
- “We explain ourselves by telling our stories;”
- “Everyone is equal—no person is more important [expert] than anyone else;” and
- “Spiritual and emotional aspects of individual experience are welcomed.”

2. Circles are *based on a deep assumption that everything is connected in an interdependent way* and, as a corollary, that we have “*a deep desire to be connected to each other in a good way.*” This supports the view that collective decision-making comes through the collective wisdom of shared storytelling rather than through point-by-point disputation and the mental sifting of arguments.

3. Circles use *a structure grounded on a foundation of shared values embraced by the Circle participants to create a safe space for dialogue.* (*Ten core shared values* often appear in Circles: “respect, honesty, humility, sharing, courage, inclusivity, empathy, trust, forgiveness, and love”). The *five structural elements* of Circles are:

- “Ceremony;”
- “Guidelines” adopted by Circle participants (*Six essential guidelines*: “respect for the talking piece, speaking from the heart, speaking with respect, listening with respect, remaining in Circle, and honoring confidentiality,” PLUS others agreed upon by participants);
- “Talking Piece;”
- “Keeping/Facilitation” by a participant to promote integrity of the space and its process; and
- “Consensus”—when decisions/actions are called for.

40. ©2016 Howard J. Vogel. All Rights Reserved. *Adapted from* KAY PRANIS ET AL., PEACEMAKING CIRCLES: FROM CONFLICT TO COMMUNITY (2003); KAY PRANIS, THE LITTLE BOOK OF CIRCLE PROCESSES: A NEW/OLD APPROACH TO PEACEMAKING (2005); JENNIFER BALL ET AL., DOING DEMOCRACY WITH CIRCLES: ENGAGING COMMUNITIES IN PUBLIC PLANNING (2010).

4. Circles *focus on relationships before issues*. Circles embrace the “importance of spending time on connecting as human beings beyond mere introductions before trying to work out issues or move to action.” They invite participants to bring their best selves to dialogue with others about important and difficult issues. They do this by going beyond acquaintance to building understanding through telling our stories to each other in the Circles participants form.

5. Circles *embrace storytelling* because of its power to build understanding and trust, which permits participants to engage each other and the issues to be addressed “in a more profound way.” Listening to the stories of others is a means of according respect and power to the storyteller.

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