

BEYOND CRIMINAL COURTS

IMAGINE

Questions to Consider When Thinking About Evaluating & Adjudicating Harm Without Courts

In 2021, abolitionist organizers and thinkers gathered to imagine possibilities for exploring, evaluating, and adjudicating harm outside of criminal courts. As part of their conversations, they developed the following set of questions to think about when evaluating and adjudicating harm outside of courts.

Adjudication. Why have a process for dealing with harm when it happens?

- What is the goal of fact finding? Is the goal to ascertain one truth?
- If there is no absolute truth, what are the goals of the adjudication process? Can we agree on the goals of the process? Are we constantly reevaluating and shifting those goals?
- Right now the goals are punishment and control. Do we need to have one uniform vision to move away from these?
- Permanence and stability may not be the goal. How do we ensure our new creations are flexible and malleable, given the real conditions?
- In what ways are adjudication and harm-resolution already familiar exercises that we intuitively know how to engage in without courts in liberatory ways?
- What do we do about it? How do we adjudicate harms and impose consequences? It is

human nature to want our harms to be seen, witnessed, and lead to some form of consequence, even if that consequence is not punitive. We still need a space for acknowledgement to occur that doesn't turn into vigilante justice. In the absence of a place to call people to, we devolve into sole individualism which cannot sustain a society. So how do we get that "justice?"

- How can whatever we create also function as politicization? A way to bring people into liberation movements more broadly? Goal is not just addressing harm but growing the movement.

Defining Harm. Harm is the responsibility of the entire community, not an individual experience.

- Fact finding that illuminates the context and what created the possibility for that harm to happen. What are the conditions that made it possible for harm to happen?
- What system can hold multiple truths, multiple layers of harm?
- How do we address harm without reproducing harm?
- Why do we hurt each other?
- What makes harm happen?
- What does harm look like when material needs are met?
- How do we collectively articulate harm?
- How do we think about transforming harm at an institutional level?

Accountability, Responsibility, Consequences.

- The purpose of new interventions should support a shift in consciousness from the individual to the collective, extending an opportunity to repair and take accountability. If someone refuses that offer, they are not ready for transformation. Then what?
- Start early and with the family. How do we create decentralized family structures so we can move from the nuclear family to collective responsibility?
- How do we learn how to take responsibility for when we cause harm?
- Does there need to be proportionality in consequences? Does there need to be certainty as to the nature and duration of consequences for harm?
- How will we know that consequences are enough? When is accountability and repair finished?
- Who is to be made whole about harm that has been enacted? How has this impacted everyone who has been in the community?

- How do we deal with consequences when the person who did harm doesn't accept them?
- How does the community respond to that desire for revenge and violence in response to harm?

Participation, labor.

- Who does the majority of work land on, who bears most of that labor? How can that insourcing labor be redistributed?
- The story starts with the premise that everyone has agreed to participate in these circles; everyone who agrees to participate in society is a part of it. People who are born into the society are inherently a part of it, not voluntarily joined. How do we cultivate voluntary participation across ages? Are we ok with a certain degree of non-voluntary participation? Why is it important to have everyone participating in a society?
- What would it look like for every member of the community to be required to participate in adjudication/justice work for some duration / or on rotation? Peace-keepers, circle keepers, etc.
- Different ideas of peace keepers/trust people/ etc. in the stories. How do groups choose who occupies these roles? Is it/should it be a fixed role?
- How do we cultivate the practice and stamina required for sustaining this work?
- What kind of people do we need to be, to be able to self-regulate and deal with harm without becoming cops? Finding balance between a) you can't do this anymore b) disposing of you completely

How do we anchor whatever new thing(s) we are creating in our histories and lessons learned? If people's histories are not the same history, how do we then collectively heal across groups?

Source: <https://beyondcourts.org/en/imagine/questions-consider-when-thinking-about-evaluating-adjudicating-harm-without-courts>

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