

# Resources for Restorative Justice

BY KENNETH L. GARDER

**Restorative justice offers a broader lens, different goals, and alternative practices to retribution and incarceration. The books reviewed here invite us to journey toward a justice that more accurately reflects God's covenant justice that is "satisfied by the restoration of shalom."**

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**H**ow should society respond to wrongdoing? Every society develops procedures, processes, and institutions in response to violations of its behavioral norms. The criminal justice system is a complex web of laws, enforcement and judicial personnel and procedures, and correctional institutions devoted to countering unlawful activity. The criminal justice system in the United States confronts enormous challenges that call into question the fundamental principles on which the system is built. These challenges cause us to reexamine the lens through which we view response to offenses.

The extraordinarily high rate of incarceration and the continuing use of state-performed executions signify the foundational role played by punishment as the preferred means of responding to wrongdoing in American society. Identifying, apprehending, convicting, and punishing offenders are the goals. Justice is served when the perpetrators are punished in proportion to their offenses. Justice, therefore, is viewed through the lens of retribution.

Increasingly, questions are raised as to the cost and effectiveness of the current criminal justice system. The cost of incarceration is forcing states and the federal government to look for alternatives to imprisonment. The disparities in sentencing driven by race and class raise serious questions about the fairness and equality of the current system. The high recidivism rate demonstrates that "correctional institutions" seldom actually correct wrongdoing. The growing number of victims' rights organizations is indica-

tive of the inadequate attention given to victims in the current focus on laws and offenders. Senator Jim Webb of Virginia is drafting legislation which calls for a complete review and overhaul of the system. The time is right for challenging current practices and offering an alternative approach to crime and punishment.

A growing number of criminologists and theologians advocate restorative justice as a viable alternative to the current system built on retributive punishment. While the concept represents what Howard Zehr calls "a compass, not a map," it provides a different set of principles, questions, practices, and goals than those which guide the current criminal justice system. In *The Little Book of Restorative Justice* (Good Books, 2002, 64 pp., \$4.95), Zehr distills in concise and accessible language the core principles and practices of the restorative justice "compass" or "lens" that he has been instrumental in developing. The book is intended to be a brief overview of the principles and philosophy that guide restorative justice practices. He defines restorative justice as "a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible" (p. 37).

The current criminal justice approach defines crime as a violation of the law and the state. Restorative justice, on the other hand, deems crime to be a violation of people and relationships. According to the dominant practice, justice requires the state to determine blame and impose punishment. Proponents of the restorative alternative understand that justice involves victims, offenders, and community members in an effort to put things right. The central focus of criminal justice is "offenders getting what they deserve" while restorative justice focuses on the victims' needs and the offenders' responsibility for repairing harm.

Zehr acknowledges evolution in his own thinking about the role of retribution. While he once viewed retributive and restorative as polar opposites, Zehr now argues that real justice is a continuum and retribution plays an important role. However, he stops short of adequately describing the appropriate role of retributive punishment as a component of justice and restoration.

While Zehr offers a brief overview, Karen Heetderks Strong and Daniel W. Van Hess in *Restoring Justice: An Introduction to Restorative Justice*, fourth edition (Matthew Bender & Company, 2010, 380 pp., \$43.95), provide a more extensive summary of the history, principles, goals, and practices of restorative justice.

Since responding to crime has been a part of every society, the patterns of thinking about justice have evolved throughout human history. Although Strong and Van Hess oversimplify the history, they sketch the antecedents to the existing patterns of thinking. Among ancient peoples crime was viewed as against victims and their families, and restitution was expected. By the middle of the ninth century, the interests of the victims began to be replaced by upholding the authority of the state. Punishment by inflicting

pain replaced restitution to victims; whatever restitution was extracted from the offender went to the state or the king, not the victim. By the eighteenth century, isolating offenders from their communities was adopted as a method of treating and correcting offenders. With support from some faith communities, the modern penitentiary emerged as an alternative to stockades, flogging, and corporal punishment. As the name implies, offenders were confined in penitentiaries as an opportunity to reflect on their wrongdoing with the goal of penitence.

Victims are the forgotten persons in the current system as crime is treated as offense against the state. The state through the police and courts determines guilt and punishment with little, if any, attention given to the needs of victims and their families or of offenders and their families. Justice is considered served when punishment is administered, with incarceration as the preferred sentence. Healing, transformation, and reintegration are left unaddressed. In this sense, Strong and Van Hess affirm, the current criminal justice system represents “theft by the state” from the victim of the offender’s harm, and the theft compounds the wounds of both victim and offender (p. 13).

The overarching goal of justice from the restorative perspective is the healing of victims, offenders, and communities, with emphasis falling on the needs of victims and the obligations of the offender and community to respond to those needs. A restorative response involves three essential components—encounter, amends, and reintegration. Although there are many variations of these components, they include these basic elements: noncoercive participation by victims and offenders and other stake holders; facilitated mediation, with adequate preparation; acceptance of responsibility by the offender expressed in apology, changed behavior, and restitution; and reintegration of victims and offenders into the community in ways that provide safety, dignity and respect, material help, and moral and spiritual guidance.

Strong and Van Hess affirm a role of faith communities in the restorative process, although the contribution seems to be limited to the reintegration phase. Christopher Marshall, on the other hand, provides a

comprehensive theological critique and vision in *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment* (Wm. B. Eerdmans, 2001, 362 pp., \$26.00). Marshall brings to the analysis his skills as a New Testament scholar and experience as a restorative justice facilitator. The result is a compelling biblical and theological foundation for a restorative means of dealing with crime, though the arguments are sometimes unnecessarily repetitive.

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**Restorative justice involves victims, offenders, and community members in putting things right. It highlights both victims’ needs and offenders’ responsibility for repairing harm.**

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While faith communities have supported and theologically rationalized the system of retributive punishment, they have also spawned the restorative justice movement. Marshall lets the reader know that he considers the Christian gospel as formative in understanding and practicing justice.

My premise is that the first Christians experienced in Christ and lived out in their faith communities an understanding of justice as a power that heals, restores, and reconciles rather than hurts, punishes, and kills, and that their reality ought to shape and direct a Christian contribution to the criminal justice debate today. (p. 33)

Justice from a biblical perspective is shaped by God's action in history, supremely in Jesus Christ. God's justice is expressed in God's saving action in creating shalom within a covenantal community. Therefore, biblical justice involves covenant, redemptive action, and community empowered by and directed toward a vision of shalom. As Marshall affirms, "The justice of God is not primarily or normatively a retributive justice or a distributive justice but a restorative and reconstructive justice, a saving action by God that recreates shalom and makes things right" (p. 53).

Marshall helpfully explores the role of punishment in the pursuit of justice and restoration. He notes, "the New Testament writers see a valid place for punishment in the administration of justice, though in nearly every case it serves a predominantly redemptive rather than retributive purpose" (p. xv). "Restorative punishment" serves to demonstrate a society's moral boundaries, call for repentance, and facilitate reparation. Punishments employed as part of the early church's discipline were inflicted out of equal concern for the integrity of the community and the spiritual welfare of the offender, not out of vengeance or a means of inflicting pain.

While there is a proper role for "good punishment," Marshall concurs with James Logan that many punishments employed in the current penal system are inherently destructive rather than restorative. Capital punishment is incompatible with a vision of redemption and reconciliation, and it contradicts basic foundational principles of restorative justice.

Marshall concludes that forgiveness is the consummation of justice and is grounded in God's forgiveness as expressed in Jesus Christ. Forgiveness is not a superficial act of letting wrongs go without impunity or forgetting the past. True forgiveness, revealed in Christ, takes seriously the harm done and enters into the painful process of repentance and reconciliation within the context of covenant community. Marshall insightfully identifies key components of forgiveness and describes the dynamics of the process.

Changing the lens through which society views criminal justice requires evidence that a restorative model is an effective alternative. Restorative justice has yet to be adopted on a large scale by a contemporary society; however, innovative programs have been initiated which point to the efficacy of restorative justice. Lawrence W. Sherman, professor of criminology at the

University of Cambridge, and Heather Strang, Director for Restorative Justice at the Austrian National University and lecturer in criminology at the University of Pennsylvania, have studied the role of restorative justice in the British youth and criminal justice system. Their *Restorative Justice: The Evidence* (London, UK: The Smith Institute, 2007, 95 pp.), available online at [www.sas.upenn.edu/jerrylee/RJ\\_full\\_report.pdf](http://www.sas.upenn.edu/jerrylee/RJ_full_report.pdf), contains statistical and case study data that restorative justice programs substantially reduced repeat offending in some offenders and reduced crime victims' post-traumatic stress symptoms and related personal and financial costs. Additionally, restorative justice practices reduced victims' desire for violent revenge and reduced recidivism more than incarceration among both adults and juveniles.

The most important conclusion reached by Sherman and Strang is that restorative justice works differently on different crimes and different kinds of people. Restorative justice seems to reduce crime more effectively with more, rather than less, serious crimes and more consistently with crimes involving personal victims than with so-called property crimes. This conclusion runs contrary to the more widespread assumption that restorative justice practices should be limited to minor offenses. While the authors are reluctant to make sweeping claims from the limited available data, they affirm, "There is far more evidence on RJ [restorative justice], with more positive results, than there has been for most innovations in criminal justice..." (p. 8).

Christopher Marshall begins his book by declaring, "Few issues evoke such powerful emotional responses today as crime and its consequences" (p. 1). Preventing and responding to crime requires more than political slogans or programs that leave unattended the complex causes and multifaceted remedies. The evidence clearly indicates that the current criminal justice system with its over-reliance on retributive punishment merits critical critique and creative reform. While restorative justice is no simple panacea, it does offer a broader lens, different goals, and alternative practices to retribution and incarceration. Communities of faith are uniquely equipped with a narrative of restorative justice to contribute to the conversation.

Many scholars and theologians have already entered the conversation and are contributing to the shaping of a new vision. The authors of these reviewed volumes invite us to join the journey toward a justice that more accurately reflects God's covenant justice and is "satisfied by the restoration of shalom."



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