

Restorative Justice

BY LORRAINE STUTZMAN AMSTUTZ

Restorative justice, by dealing with crime and harm in a holistic way, promises to sew together the pieces of torn lives into a fabric of justice that is meaningful for victims, offenders, and the community. How can we discover and implement the restorative practices that will transform our criminal justice system?

The sacred meeting occurred in the men's prison in Frackville, PA, between an inmate and the mother of the man he was convicted of killing a decade before. Another facilitator and I, who met with them for six hours, were standing on holy ground as they began cautiously, but then became immersed in conversation.

We knew the mother's preparation for the conference had begun two years earlier when she petitioned the Office of the Victim Advocate in Pennsylvania to speak with the man convicted of murdering her son. "Ten years ago when he walked out of that courtroom after sentencing, he looked me straight in the eye and said, almost in a whisper 'I did not kill your son,'" this mother had told me when we first met and I asked her why she wanted to meet with the man. She admitted, "I have to know why he said that to me." Later when I visited the inmate to see if he was willing to meet with the mother, he responded, "I told her 'I did not kill your son' in hope that someday she would want to find out why I said such a thing after being sentenced to life in prison for murder." She had decided to find out and he intended to tell her.

Obviously the inmate had prepared for their meeting as well. Each knew what they wanted to say to the other. In a moment of silence at the close of the session they simply looked at one another, each one knowing they had received what they needed to hear. Then they hugged.

A few weeks later I phoned the woman to ask her an important question. The inmate had talked to his own mother after the meeting, and she had written a letter to the victim—mother to mother. I was calling to know if the woman wanted to read this letter from the inmate’s mother. She was astounded. “Isn’t this what we were put on this earth to do,” she told me, “to be in community with one another, to find the connections where we can?”

THE CALL TO DO JUSTICE

The meeting between the mother and the inmate is an example of restorative justice. It illustrates how we can begin to sew together the pieces of torn lives into a fabric of justice that is meaningful for victims, offenders, and our community. We can understand the goals of restorative justice by examining these well-known words from the prophet Micah: “And what does the LORD require of you, but to do justice, and to love kindness, and to walk humbly with your God?” (Micah 6:8b).

Micah prophesied during a complicated period for the southern kingdom of Judah. He spoke for God near the end of the eighth century B.C., when powerful Assyrian armies were destroying the northern kingdom of Israel and its capital Samaria, sending refugees flooding south into Judah. This was a wakeup call for the people of Judah, who like their northern kinsmen had grown tired of God and chosen to go their own way. During such tumultuous times they were trying to make amends, to put things right.

“With what shall I come before the LORD?” the Judeans ask (Micah 6:6a). They rightly assume that the Lord expects something from them, and they begin by mentioning rituals that seemed in that day to be the appropriate human responses to God’s grace. Perhaps God desires “burnt offerings,” in which the whole animal is sacrificed with nothing left for eating. Or does the Lord prefer “thousands of rams,” the sacrifice made by the great kings of Judah? David once offered “a thousand bulls, a thousand rams, and a thousand male lambs” (1 Chronicles 29:21) and Solomon had made “a thousand burnt offerings” (1 Kings 3:4). Moving quickly beyond the traditional offerings, the people mention an outrageously lavish sacrifice—“Shall I give my first-born for my transgression, the fruit of my body for the sin of my soul?”—something not allowed since God rejected Abraham’s sacrifice of Isaac, and made a capital offense under Mosaic law (Genesis 22:12; Leviticus 20:1-5).

Micah begins his reply to the people—somewhat like an exasperated teacher addressing students who are concerned at last about their grade in the class—with a simple answer: there will be no surprises! “God has showed you...what is good” (6:8a). God’s *torah*, or way, is well known to the people through the Ten Commandments and other instruction. The prophet knows the people are misusing the rituals as religious insurance

policies to ensure God's love. The rituals, they believe, buy time for them to continue their misbehavior; they can keep on sinning, but at any time win favor with God again by offering another sacrifice. Micah's response catches these would-be worshipers by surprise. They wrongly assume God is waiting for us to pay *something* to compensate for our sin, when in fact God wants us to live with justice, mercy, and humility.

God calls us "to *do* justice," not merely desire it, hope for it, and appreciate it when it occurs. Justice is something we do. Micah teaches by providing a number of negative examples: the people fail to do justice when the powerful oppress the weak, employers exploit laborers, and judges give corrupt verdicts. Summing up their failure to do justice, the prophet writes (Micah 7:2-3):

The faithful have disappeared from the land,
and there is no one left who is upright;
they all lie in wait for blood,
and they hunt each other with nets.

Their hands are skilled to do evil;
the official and the judge ask for a bribe,
and the powerful dictate what they desire;
thus they pervert justice.

Micah is saying that we need to work for the establishment of justice for all, especially the powerless.

Furthermore, we are "to love kindness." There are a variety of translations for *hesed*, a relationship word that has the connotation of "looking through the eyes of the other." When used to describe our relationships to one another and to God, *hesed* includes a strong element of faithfulness and means "steadfast love" or "love-loyalty." Loving kindness is the way God expects us to act toward one another. Ephesians 4:31 exhorts us to "put away from you all bitterness and wrath and anger and wrangling and slander, together with all malice, and be kind to one another, tenderhearted, forgiving one another, as God in Christ has forgiven you." Now that's loving kindness. It's a life-long process God calls us to grow into, so it must be part of our personal journey.

"To walk humbly with your God" is the third charge to us. In current usage, "humility" does not conjure a positive image, but rather of a person being a doormat. However, in this passage humility refers to being open, empty, and flexible toward what God has to show us, or to offer us. Instead of "humbly," we might translate "carefully" or "circumspectly." We are to be tuned in to and welcoming of what God is doing in the world.

"Walk" is another important word in this charge. Perhaps the prophet employs it to remind his people—often surrounded by comforts never enjoyed by those whom God brought out of slavery in Egypt (6:4)—of their

ancestors' long wilderness trek to the land of promise. For their ancestors, even the physical act of walking had been an act of faith. Walking day-to-day with God continues to be the heart of our faith. Jesus calls his disciples not only to believe or trust him, but also to "follow" and walk with him.

WHAT ARE WE DOING?

In working with victims and offenders of crime, I have found no easy answers to my questions about how to do justice. Everywhere we look the world seems unfair, with unjustified stark contrasts between rich and poor, healthy and ill, advantaged and disadvantaged. It's not a perfect world. Yet God provides us not only with the challenge of living amid such imbalances, but also with the joy of working to make things better for everyone rather than just a few.

God calls everyone to be actively involved in restoring a life-giving world. For those of us who have many resources, the responsibility is greater. But this responsibility is not limited to mere generosity—to the "haves" giving out of their abundance to the "have-nots." Doing justice, loving kindness, and walking humbly with our God means recognizing that we are all part of God's family.

This recognition should move us beyond individual acts of compassion (as important and necessary as they are) to making the systemic economic and societal changes that justice demands. We should address some hard questions, such as: (1) *Why has prison experience become a "normal" aspect of this society, with more than two*

million of our citizens incarcerated? (2) *How do we care for the one-and-a-half million children who have a father or mother in prison, and therefore suffer the secondary effects of their parent's imprisonment?* (3) *How do we correct the legal system's persistent racism, as evidenced by those whom we incarcerate?* African Americans comprise only 12.3% of the U.S. population, but half of the Americans be-

hind bars. Thirty percent of African American males from the ages 20 to 29 are "under correctional supervision"—either in jail or prison, on parole, or serving probation. According to an estimate from the U.S. Bureau of Justice Statistics in 1996, a sixteen-year-old American black man faces a twenty-nine percent chance of spending time in prison during his life. The chance for a young white man is four percent.¹ (4) *How can we help crime victims find*

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justice outside of the legal system? Susan Herman of the National Center for Victims of Crime suggests we need a system of “parallel justice” to address the needs of victims, which would be separate from the legal system’s work in responding to the needs of offenders.²

Too often in the United States we look for quick solutions to crime; we do not spend the time and money necessary to address the causes of crime.

Victims of crime must live with their dangerous memories, and how they integrate these memories into their lives varies from person to person. This is a critical reason for asking victims what they need rather than making assumptions and decisions for them.

Yet, as Jesus warns, “No one sews a patch of unshrunk cloth on an old cloak; otherwise the patch pulls away from it, the new from the old, and a worse tear is made” (Mark 2:21). This analogy applies to our situation, for our society is like a garment that’s been torn by injustice. The current legal system, like a patch made from “unshrunk cloth,”

rather than mending the injustice, only leads to a worse tear in the fabric of our community. We don’t have the option of starting over with a new garment (a perfectly just society); we must employ a better, “prepared” cloth, to patch the damaging tears of injustice in the garment we have. So, I propose we look to restorative justice as the properly prepared or “shrunk” cloth to repair our community and make it stronger.

THE RESTORATIVE JUSTICE ALTERNATIVE

Though there is no universally-accepted definition of “restorative justice,” I am using this term to mean “the use of inclusive, collaborative processes that involve the victim, the offender, and communities in identifying harms and needs that result from offenses.” Howard Zehr develops this account by contrasting the current legal process to a restorative one. In the current system, *crime* is a violation of the law and the state is the victim; the *aim of justice* is to establish blame (guilt) and administer pain (punishment); and the *process of justice* is a conflict between the adversaries in which the offender is pitted against state rules, intentions outweigh outcomes, and one side wins while the other loses. By contrast, in a restorative justice system, *crime* is a violation or harm to people and relationships; the *aim of justice* is to identify obligations, to meet needs and to promote healing; and the *process of justice* involves victims, offenders, and the community in an effort to identify obligations and solutions, maximizing the exchange of information (dialogue, mutual agreement) between them.³

Crime violates people, and these violations create moral obligations for

the offender toward both the victims and the community. By failing to address these obligations well, the criminal justice system does a disservice to everyone involved. Offenders are often discouraged from even acknowledging their responsibility; instead they must look out for themselves in the adversarial legal game. A restorative justice system, on the other hand, would involve victims, offenders, and community members in order to identify obligations and needs, and to search for solutions in a safe, trustworthy process. Community collaboration is essential in order for the processes of justice to strengthen communities rather than weaken them.

Offenders are not well served by a criminal justice system that aims at “warehousing” rather than rehabilitating them. Barb Toews, who works for the Pennsylvania Prison Society, describes how caring communities might better deal with the needs of offenders. She urges us to invite incarcerated men and women into dialogue to learn about their experiences and to elicit their insight on the resources and programs they need. Communities should provide opportunities for meaningful accountability and making amends that do not depend solely on face-to-face interaction with victims and offenders. And we should respect the life experiences of offenders, including those with victimization, and find restorative ways to address these experiences without absolving offenders of responsibility to their victims.⁴

The criminal justice system does not meet the needs of victims either. Being the victim of a crime is a devastating experience. It creates crises of self-identity, meaning, and personal relationships that impact all aspects of life. We need an appropriate sense of control over our lives and a certain amount of personal power; yet for victims, someone else has taken control over their lives in a way that leaves them feeling vulnerable and dehumanized. And they may have a crisis of religious faith, if they had a belief that God would keep them safe. Victims need an opportunity to incorporate their encounter with crime into their lives. This often happens as they retell their story to others, sometimes over and over, until they can face their pain without feeling like they are going crazy. Victims must live with their dangerous memories, and how they integrate these memories into their lives varies from person to person. Their response to victimization is a personal journey. There are no formulas, only guidelines along the way. This is a critical reason for asking victims what they need rather than making assumptions and decisions for them.

WHAT VICTIMS NEED

In order to enhance the voice of victims, a team of restorative justice advocates and victim advocates participated in the Listening Project in 1999-2002. We traveled to seven states to listen to victims and their advocates talk about victim needs, their experience with justice, and their perceptions of restorative processes. We discovered that “where offenders are

provided help to change their lives, but victims are not provided help to deal with their trauma, victims feel betrayed." Victims must have the opportunity "to give voice to their own needs and aspirations" in restorative justice processes and must "not be sidestepped by surrogate voices, such as (prosecutors)."

One interviewee insisted, "In order for restorative justice to even work, there needs to be more education about it." For this reason, the Listening Project concluded that programs of restorative justice should be educational in nature, including education on victim trauma for offenders and the public at large, education on the impact of crime including the needs of victims, education about offenders

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and their situations for the victim community, and general education and awareness about restorative justice for 'system' justice personnel.⁵

Unfortunately, when I talk with local school administrators about educating their students in the processes of restorative justice, one of their greatest concerns is that it is time consuming. They conclude, "we can't spend the kind of time you're talking about to teach this to students." It is true, of course, that working through complex issues of injustice, addressing harms, and responding to crime within the context of restorative justice always takes time—whether the venue is our homes, schools, congregations, community organizations, or in the criminal justice system. Yet if we don't invest the time necessary to teach young people about restorative justice, and model the type of behavior we want them to exhibit as adults, then we shouldn't be surprised at the kind of problems concerning justice we see in our society.

The mother, with whose story I began, went into the prison meeting believing this inmate might not be responsible for, yet know some part of the truth about her son's death. Though he did not physically commit the murder, the inmate says, he knows the person who did. The victim thinks this man is telling her the truth, since she did her own investigating when her son was murdered and believes many facts were never revealed during the trial. She is grateful to this young man for telling his side of the story; it has provided her with a great sense of relief and comfort. We know that the criminal justice system does not always produce justice for

those who need it most. It may reach a legal decision, but not offer knowledge and insight for those who have to live with the realities of crime.

In situations such as these, we need to ask “What does justice require?” The principles of restorative justice—crime is a violation of people and relationships; harm creates moral obligations; and adequate responses must address the needs of all those involved, and involve all those affected—point beyond our ineffective bandage solutions and toward the long-term changes in the justice system that we need. These principles guide us toward the transformation of people, systems, and structures that oppress, and thus they allow us to hope for a drastically different system of justice than many people experience in our society.

WALKING HUMBLY WITH GOD

As we’ve seen, we cannot effect these changes to our system of justice by ourselves; we need to garner support for restorative justice from our communities by patiently educating children, youth, and adults. And we cannot do any of this without the spiritual discipline of “walking humbly” with God. In *Toward the Heart of God*, John Dalrymple helpfully compares our spiritual journey with God to the swing of a pendulum—its inward movement exposes us to God, and then the counter-movement outward leads us to address the problems of the world. If the pendulum swings only slightly inward, it can in turn swing only slightly outward. The closer we draw to God, the further we can go in engaging the world’s suffering in a redemptive way.

It follows that one way to tell how we are succeeding in the journey inward toward humility before God, is to monitor how we are responding outwardly to the brokenness in the world.⁷ Are we becoming more alive and responsive to the injustice around us? Are we increasingly sensitive to other people’s needs? The journey toward God not only transforms us individually, but motivates and empowers us to do transforming work.

Restorative justice helps us think about harm in a holistic way. Our challenge is to discover and implement restorative practices that can transform our criminal justice system, which today values rules over relationships, laws above needs, and power over others rather than collaboration. Let us continue to listen to the stories of victims and offenders, and ask what they need in order to experience justice. In this way we may answer the prophet’s call “to do justice, and to love kindness, and to walk humbly with your God.”

NOTES

1 “Key Crime and Justice Facts at a Glance” (Bureau of Justice Statistics, accessed May 28, 2004), www.ojp.usdoj.gov/bjs/glance.htm.

2 For more information on the Parallel Justice Project, see The National Center for Victims of Crime website, www.ncvc.org/ncvc.

3 Howard Zehr, *Changing Lenses* (Scottsdale, PA: Herald Press, 1990).

4 Barb Toews, "Listening to prisoners raises issues about prison-based restorative justice," *VOMA Connections*, 11 (Summer 2002). This quarterly newsletter of the Victim Offender Mediation Association is available on the web at <http://voma.org/connect.shtml> (accessed May 28, 2004).

5 Harry Mika, Mary Achilles, Ellen Halbert, Lorraine Stutzman Amstutz, and Howard Zehr, *Taking Victims and Their Advocates Seriously: A Listening Project* (Akron, PA: Mennonite Central Committee, 2002), 6, 12. This report is available from MCC Office on Crime and Justice, 21 S. 12th Street, PO Box 500, Akron, PA 17501, or online at www.restorativejustice.org/rj3/Full-text/ListeningProject.pdf (accessed May 28, 2004).

6 John Dalrymple, *Toward the Heart of God* (Minneapolis, MN: Winston Press, 1982).

7 Francis W. Vanderwall draws this implication in *Water in the Wilderness: Paths of Prayer, Springs for Life* (Mahwah, NJ: Paulist Press, 1985).



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