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### References

David Lerman. (1999). Restoring Dignity, Effecting Justice. *Human Rights*, 26(4), 20.

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### RESTORING DIGNITY, EFFECTING JUSTICE

Human rights activists have long focused their struggles on the people affected by various criminal justice systems. Although these efforts have often born fruit in individual cases and have perhaps affected some small changes that have long-term impact in particular systems, these efforts fail to look at the "big picture." A deeper analysis of that picture reveals that Western-based modes of meting out criminal justice fail to take into account the fundamental human right of being interconnected with one another in healthy communities. The U.S. criminal justice system, for instance, has the wrong focus--punishing convicted criminals by putting them behind bars.

The ripple effects of the social isolation caused by crime are numerous. We lose the capacity to resolve disputes on our own. We lose our capacity to see ourselves as part of a "we," and become less willing to participate in social movements working with and trusting others. In this sense, crime is not just an offense against an individual, it is an offense against the whole social fabric of the country. The current criminal justice focus on incarceration in the U.S. does little to repair that.

The restorative justice movement, however, aims to change the direction of criminal law by refocusing it on aiding victims and repairing communities rather than simply incarcerating offenders. Current criminal law focuses on determining which law was broken, who broke it, and what punishment should be meted out. Restorative justice, however, asks: Who was harmed?; How were they harmed?; and How can the offender, community, and criminal justice system help repair the harm? This focus helps the major stakeholders in the event--the victim, offender, and community--focus on moving forward, using the event as a catalyst from which to reengage and empower victims and community members toward building stronger connections. Restorative justice is not any particular program, but a framework for viewing crime and its aftermath.

The following are examples of restorative justice at work:

In Minneapolis, the Central City Neighborhood Partnership has begun using a panel of neighborhood residents to meet with offenders charged with soliciting prostitutes. During these sessions, the "john"

learns of the effects of prostitution on the neighborhood. Together, the offender and the panel develop a sentence that considers the offender's background and skills, as well as the crime committed. The punishment is usually comprised of (1) community service; (2) a fine; and (3) an education component, and often permits the criminal case to be dismissed if the offender successfully complies with the plan.

In one case, the offender agreed to work with local residents to prepare a community garden for winter, use his sewing skills to mend clothing for a local group home, write an apology letter, and contribute to an organization that helps women escape prostitution. In another case, a young Somalian man arrested for soliciting a prostitute agreed to translate and distribute an educational flier about the ills of prostitution to the Somali community.

A core principle of restorative justice requires that we care about the needs of crime victims. The traditional criminal justice system has slowly become more attuned to the needs of crime victims. For example, many prosecutors' offices now include a victim/witness unit to keep victims informed, and to assist with victims' needs. Some are also moving toward a restorative justice practice called Victim-Offender Conferencing (VOC), which allows a victim and offender to meet in a safe setting to actively explore the impact and effect of the crime on their lives. Although the VOC has the flavor of mediation (it is run by a trained facilitator) there is a difference in that the playing field between the parties is not level. Rather, there is an understanding that one party has been wronged, and that the other is there to accept responsibility. The VOC allows the victims to ask questions if they choose to do so. Thus, victims can confront offenders with: "Why me?" and "How did you get in?" Offenders in turn, learn the real human consequences of their actions firsthand. In addition, the VOC enables community members to convey the moral outrage of the community.

During a VOC, it is common for the offender to apologize directly to the victim. Sometimes a victim will forgive the offender for committing the act, although this should never be expected of a victim. Generally, an agreement is reached as to how the offender can repair the harm done. This usually includes a plan for the offender to gain further competencies that will lessen the likelihood of recidivism.

VOC can occur at any point in the criminal justice process. Thus, a conference can be held after a plea, but before sentencing; before a plea, with contemplation of a dismissal or reduced charges on successful completion of the agreed-upon plan; or several years after a criminal act, while the offender is imprisoned.

The following case is a good example of VOC in action:

K.T., an eighteen-year-old high school graduate awaiting entry into a local college where she received an academic scholarship, was working as a cashier at a large grocery store for the summer. Her older brother is in prison, her mother has a cocaine habit, her younger siblings are frequently neglected by their mother who sometimes disappears for days. One day, fed up with her mother's disappearances, K.T. decided to steal money from the store's cash register. The third time she stole money from the store, she was observed pocketing \$250. K.T. was arrested and confessed to prior incidents of theft totaling \$1,000. She was charged with misdemeanor theft, although the amount stolen could have brought a felony charge. In Milwaukee, a conviction for this offense would have probably landed her probation, with an order to pay restitution, and perhaps jail time of ten to twenty days. Instead, K.T.'s case became one of the test cases for Community Conferencing in Milwaukee, after representatives of the grocery chain agreed to participate. Before a conviction was obtained, the community conference

was held, which included K.T., two representatives from the store, K.T.'s attorney, two community members involved with the local Task Force on Restorative Justice, and two facilitators.

The facilitated dialogue lasted about one hour, and involved three stages: first, K.T. and the store representatives retold the facts of what happened. Then each party told of the impact the crime had on them. Finally, the parties discussed how to repair the harm caused by the act.

After the facilitator set forth certain guidelines, K.T. spoke first, expressing her remorse and embarrassment through tears. Eventually, the store representatives suggested that K.T. help them by speaking at new employee orientation sessions about the process of getting caught. She also had to make restitution. Because she had no prior record, the prosecutor agreed to dismiss the case if she successfully complied with the agreement reached at the conference.

In another example, in March 1994, the members of Temple B'nai Jeshurun of Des Moines, Iowa, awoke to find neo-Nazi graffiti and swastikas scrawled on their synagogue. Zealous investigation led to the arrest of the perpetrators--a nineteen-year-old male disciple of the Aryan Nation and his seventeen-year-old girlfriend. Neither had a prior record. They were charged with felonies for their hate crime. However, prior to trial, the Temple leadership agreed to meet with the two offenders to explain to them the damage done by their act of hate and to participate in determining how they should be held responsible for their acts?

The offenders pled guilty, and sentencing was put off to accommodate the proposed meeting. A four-hour facilitated session--part of Des Moines' Victim Offender Reconciliation Program (akin to VOC)--was held, during which Temple members, including two Holocaust survivors and a former Israeli military officer, met with the offenders. It soon became clear that the two offenders were classic "wannabes." The boy came from a broken home, was the proverbial "ninety-eight-pound weakling," and had a hearing disability. When he was sixteen, he ran away from home and was taken in by the Aryan Nation. He later returned to Des Moines where he hoped to become the leader of disparate groups of neo-Nazis in the area. The desecration of the Temple was his first public action against "the enemy." The young woman was extremely unsure of herself. They had been inculcated into neo-Nazi thought as just something to do, without really understanding what it meant.

After much facilitated discussion, the synagogue members and the offenders agreed on the following sentence: 100 hours of service to the synagogue under the supervision of the Temple's custodian, 100 hours of study of Judaism and Jewish history with the Rabbi, a referral to a hearing specialist for the young man, a requirement that the young man remove the Nazi tattoos on his arms, and psychological assessments of both offenders, as well as fulfillment of the requirements for a GED. Because the two offenders did in fact complete their planned activities, the charges were subsequently dismissed.

Using the criminal act as a catalyst on which to build, the VOCs in both cases helped build relationships between alienated individuals and the wider community. By showcasing the human feelings of compassion, caring, and understanding, as opposed to vindictiveness, these VOCs allowed the offenders to truly "learn a lesson," as opposed to merely being warehoused in a prison.

Storytelling is a powerful theme that runs throughout restorative justice principles and practices. The process allows victims and offenders to tell the stories of what really happened and the impact of criminal wrongdoing. By focusing on harm, harm reduction, and accountability, as opposed to simply

finding guilt and meting out punishment, restorative justice fosters understanding of the human consequences of crime, and thus, builds human relationships.

This is naturally empowering. Victims are empowered because they feel less fear, which transforms the cycle of fear into an opportunity for hope. The community is empowered because it does not lose an individual to isolation and alienation. Offenders too are empowered by the realization that they are not being treated as throw-away people.

Human rights activists inherently work towards bettering the big picture by working for individuals affected by the power structure. While this is critically important, more can be done. Restorative justice offers a framework by which a criminal act can be used for healing, moving forward, and strengthening communities. As communities become stronger, the cycle of fear caused by crime is transformed into a cycle of hope. The basic human right of being recognized as a vital part of a community regardless of station becomes closer to a reality.

## Restoring Justice Resources

### Websites

Center for Restorative Justice and Mediation <http://ssw.che.umn.edu/ctr4rjm/> Victim-Offender Mediation Association <http://www.voma.org>

### Books

Restoring Justice By Daniel Van Ness and Karen Heetderks Strong Changing Lenses By Howard Zehr

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