Restoring Justice: An Alternative Approach to Fairness, Equity, and Equality—An Introduction

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Abstract
The article gives an introduction to this special issue of the Journal of Societal and Social Policy, pointing out the importance of the new approach of restorative justice as a means to achieve global peace and welfare. The new therapeutic approach of restorative justice replaces age-old practices of retribution and punishment.

Keywords: Restorative justice, vengeance and retribution, healing and reconciliation.

This special issue of the Journal of Societal and Social Policy is written during a time of increasing international tension, ongoing war and threats of war and ever growing efforts to repress dissent and silence the voices of moderation and peace. In this climate of fear and reactivity the topic of Restorative Justice is especially salient because it offers an alternative to traditional models of vengeance and retribution that repeats age-old patterns of the equalization of harm through further harm.

This issue is timely because just recently the United Nations Commission on Criminal Justice and Crime Prevention passed a resolution that supports the establishment of restorative justice initiatives among member states around the world. For the first time in the history of the modern, neoliberal nation-state a model of justice that focuses on reinstating relationship, re-building civil society and fully hearing the voices of both victim and offender has taken center stage in efforts to construct a more equitable global community.

The papers in this collection cover a range of theoretical and practical topics. The first paper by Katherine van Wormer is a largely conceptual work that traces the evolution of the concept of restorative justice and how it might be embedded within traditional ego-centric values and ethics of human service and helping professionals. The second paper by Morris Jenkins offers an insightful exploration of how Afrocentric theory might interface with restorative justice models to better serve the unique needs and community conditions of persons of color.

The third paper by Fred H. Besthorn seeks to introduce the reader to the close association between restorative justice and the environmental restoration movement and how restorative justice, as a victim-centered approach, might also apply
to non-human victimization and to conventional ways humanity has come to address pressing issues of environmental degradation.

The fourth contribution by Charles Lawrence, Madeline Lovell, and Jaqueline Helfgott offers a detailed look at a research project tracing the experiences of healing and reconciliation that took place between inmates, victims, and the community after involvement in a restorative justice program at a large states prison facility in the western United States. Finally, Heather Peters addresses both the potential and difficulties associated with the introduction of a restorative justice intervention model—Family Group Conferencing—into traditional approaches of working with those who perpetrate violence against women.

It is our hope that these articles may serve to inform and stimulates the reader’s thinking on restorative justice as a strategy for community redevelopment and innovative ventures in public social policy. No doubt the articles with raise more questions than they answer but we hope that important issues will have been highlighted and new directions for future investigation will have been encouraged.
Restorative Justice: An International Model of Empowerment

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Abstract
The study presents a full-out discussion of the current trends in applying progressive forms of restorative justice. The model of restorative justice is juxtaposed to the existing model of guilt that focuses on the offender, whereas the victim and the community rarely enter the picture. Restorative justice is introduced as a distinct method to bring about justice and healing for all parties involved. The new method centers on face-to-face communication, truth telling, and personal empowerment. The author pays particular attention to family-group conferencing, victim-offender mediation and reparations, as well as the development of social work values through restorative justice.

Keywords: Restorative justice, empowerment, family-group conferencing, victim-offender mediation, reparations.

Restorative justice is a concept that has captivated the imagination of the world in settling disputes. Derived from indigenous and religious forms of justice, restorative justice is a concept for all time and for all nations. Today, restorative initiatives are being introduced worldwide, in small ways and large, as forms of meting out justice in the case of wrongdoing. The values of restorative justice, as we will see in this paper, are highly consistent with the precepts of Buddhism, Christianity, and other religions. Central to both religions is the belief in altruism and compassion toward wrongdoers rather than vengeance.

Central to the profession of social work in any given country, is the notion of social justice. And what is meant by social justice? Flynn (1995) defines social justice as the embodiment of fairness (reasonable treatment), equity, (similar situations dealt with similarly), and equality in the distribution of societal resources. Throughout the social science literature, the term “social justice” has various shades of meanings. In social work literature, the usual meaning involves the right of citizens of the welfare state to have their needs met (Graham et al., 2000; Lee, 2001). Social justice, in other words, relates to the distribution of wealth and material goods. Along these lines, Healy (2001) writes of social justice as distribu-
tive justice or principles relating to how scarce resources are allocated, whether the allocation is based on merit or equality.

The scope of social justice, however, as political theorist Iris Young (1990: 34) argues, must be expanded if we are to understand the nature of oppression as a multidimensional force. Claims about social injustice, as Young indicates, may “involve distribution, but may also refer to other ways in which social institutions inhibit or liberate persons.” A promising development is the newly added definition of social justice in the Dictionary of Social Work (Barker, 2003). This definition talks about basic rights, protection, and opportunities: “A key social work value, social justice entails advocacy to confront discrimination, oppression, and institutional inequities” (Barker, 2003: 405).

In terms of etymology, the word justice is derived from the Latin *jus* which in classical times denoted right, especially legal right (Ayto, 1990). In accordance with this more literal definition, and consistent with Young’s formulation, the focus of this article is on social justice as it relates to legal rights and wrongs. This concept of social justice can be viewed, like distributive justice, as inextricably linked to the notions of domination and oppression. The ultimate power of the state, after all, is manifested in the manner in which justice is meted out, in the punitive apparatus of the state. Economic considerations are a necessary but not a complete part of the whole. Just as the aim of social justice is equitable distribution of resources, so does it include working toward social policies related to protecting the rights of victims and offenders. Such policies that help pave the way for reconciliation as opposed to retribution are the focus of this paper.

The teachings of social work, which is religiously based, in terms of origins and values, are out of sync, in many ways, with the dictates of criminal justice, the purpose of which is preserving the social order. Mainstream criminal justice in the United States and the punitive ethos that underlies it, however, can also be understood in terms of its religious origins, as a carryover from a somber Puritan past. But whereas social work has had a commitment for over 100 years to the rehabilitation for youth offenders, the recent trend toward even harsher punishment by the state for minors who commit crimes, is all too typical (Roberts and Brownell, 1999). Children who have committed serious crimes are now being tried in adult courts as if they were adults. Increasingly, the focus is on the act itself, not on the age of the perpetrator or the individual circumstances.

For victims, as well, the traditional model leaves a lot to be desired. Research reveals, as Mary Koss (2000) indicates, that conviction rates for partner violence and rape by known acquaintance are miniscule, that mandatory arrest and diversion programs fail to deter battering or compensate victims, and that the adversarial process often retraumatizes the victim as defense attorneys make the victim their target. Criminal justice proceedings, moreover, often reinforce the negative view that somehow the victim is responsible for the occurrence of the crime (Van Ness and Strong, 2002). Although the primary victim today is encouraged to speak during the sentencing portion of the trial, the secondary victims of the crime—families and neighbors in the local community—have no voice at all, no matter how great the impact of the crime (Bazemore, 1999).
In this increasingly globalized world, models of justice that have been successfully applied in one part of the world are being introduced in other places. The legitimacy of standard notions of justice, such as those in the adversarial/retributive mode, are being questioned and in some cases juxtaposed with more progressive restorative forms of justice. The task of this paper is to discuss the current trends, and to show how these trends are highly relevant to social work values and practice frameworks. At the intersection of policy and practice, restorative initiatives closely parallel the empowerment and strengths-based perspectives of social work. Let us start with a look at standard courtroom practices.

**Restorative Justice History**

The legalistic concept of guilt, as Howard Zehr (1995) indicates, is highly technical and removed from real-life experiences. The process rewards the person who denies his or her guilt and the one who has an aggressive, even ruthless attorney. The attorney’s ability to demolish the witness, often the victim, is the measure of a successful lawyer. The whole adversarial process, in fact, harks back to the Middle Ages in England when hired combatants fought duels on behalf of accused individuals (van Wormer, 1997). Today’s competition is the trial: One side wins, and one side loses. Families on one side of the law are torn apart from families on the other side. Such court processes hardly enhance communication and healing among family members (Morris, 2000).

Although the offender is the focus of most criminal justice procedures, individual accountability—to the victim or community—rarely enters the picture. If an accused person confesses to the police, for example, his or her possibility of “getting a good deal” from the prosecutor is minimized.

Current justice systems are based largely on the retributive model and upon adversarial process for determination of guilt or non-guilt (Hadley, 2001). Under the adversarial form of justice, crime is defined as an offense against the state. Deliberation takes place according to a standardized; one-size-fits-all trial or more often, a plea-bargaining arrangement; victim input tends to be minimal in plea bargain hearings (Van Ness and Strong, 2002). Sometimes the adversarial approach is the best way, if not to get at the truth (which it rarely does), to protect the individual’s rights. The right to representation by an attorney and the presumption of innocent until proven guilty is chief among these rights. Often, however, the pursuit of justice results in injustice. Factors of economics, gender, class, and race come into play. Justice, in practice, as Menninger (1996) suggested, may not bring fairness to all parties. Sometimes, too, the word justice is equated with vengeance. Witness for example, the cry for “justice” in connection with the recent terrorist attacks on New York City (do we seek vengeance or justice?, cf Peterson, 2001).

Justice, however can be conceptualized another way. Rooted in the rituals of indigenous populations and Canadian Mennonite forms of resolving conflict, restorative justice is a form of peacemaking between warring factions or individuals to a dispute. Justice under this model is sought in terms of reconciliation and the making of peace. Restorative justice suggests that the most important fact about
crime is that it causes harm to individuals, their families, and communities (Bazemore, 1999). How can we best repair that harm?—this becomes the most salient question, not how can we punish crime. Instead of focusing on a past wrong, what is needed is a form of justice that helps orient offenders toward the present and future state of affairs, toward membership in the community rather than removal from it. What is needed is a three-pronged system of justice: justice for the individual offender, the victim, and the community.

Restorative Justice as a Method

Around the globe, the search is on for more constructive responses than use of physical force to help prevent conflict where harm has been inflicted by humans on one another. The goal is often to restore order and peace. The goal is to restore individual lawbreakers and sometimes whole tribes to the community rather than isolating them from it. The active involvement of family members of both the offending and injured parties is one of the most striking aspects of this form of peacemaking. Today, across North America, Britain and Australia, restorative justice is emerging quietly to take its place alongside mainstream criminal justice.

The varieties of initiatives that fall under this rubric have their roots, as mentioned above, in the rituals of indigenous populations from across the globe. This form of justice has as its purpose the repairing of the harm that has been done to the victim, community and offender himself or herself. Restorative justice condemns the criminal act but not the actor and holds the offenders accountable to the community (Umbreit, 2000). The restorative process can take place either in addition to or instead of standard judicial proceedings. This three-pronged approach gives individuals and families most directly affected by wrongdoing the opportunity to be involved in the resolution process.

The conceptualization of the modern restorative justice movement was bolstered through the pioneering work of Howard Zehr of Eastern Mennonite University. The focus of the early research on this new paradigm was in North America and to some extent in Europe. The American Bar Association has played a major role in recommending victim offender mediation in courts throughout the country (Umbreit, 1996, 1998, 2000). International interest soon began to surge, however.

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1. After several meetings with the facilitator-counselor, a woman visits her grandson in prison; the grandson is serving time for the murder of his father (his grandmother’s son). As the youth cries at the pain he has caused, grandmother and grandson express their love for each other in a deep embrace.

2. A woman who had burglarized her friend’s home sat with her family members in a circle that included the victim and the victim’s family; after the victim told her story of fear and anguish and the offender apologized, arrangements were made for restitution.

3. A big boy, “the school bully” listens to his victims tell of their misery due to the threats and ridicule they have experienced from this classmate; shaken by what he has heard the “bully” promises not to continue acting like that and to get help for his problems.

4. In an Indian peacekeeping circle, members of the community open the session with a prayer and reminder that the circle has been convened to discuss the behavior of a young man who assaulted his sister in a drunken rage; an eagle feather is passed around the circle, held by each speaker as he or she expresses feelings about the harmful behavior.

Common to all these illustrations is an emphasis on face-to-face communication, truth telling, personal empowerment, and healing by all parties to the wrong doing.

**Family Group Conferencing**

Today, mediation of conflict through conferencing is the most highly developed in New Zealand where it is institutionalized throughout the whole system (van Wormer, 2003). All delinquency cases except for murder and rape, in New Zealand, for example, are handled in community family group conferences (Bazemore and Schiff, 2001). The similarities between restorative and aboriginal forms of justice coupled with the failure of the existing criminal justice system to deal with the problems of indigenous populations has enhanced its enthusiastic acceptance in New Zealand as in northwest Canada (Roach, 2000).

With the passage of the Sentencing Act of 2002, New Zealand (RJ, 2002a) enacted new legislation to make restorative justice processes that had formerly been used with juveniles and families in the child welfare system also available for adult offenders. Morris (2000: 129) describes in detail the impact of family conferencing on the family members and others who attended the New Zealand gathering. This gathering concerned Norman, a teenager who had robbed a store and also mugged a woman on the street.

“The conference opened in the usual New Zealand way: people introduced themselves, and a prayer was said. Then the facilitator explained the reasons for the Family Group Conference. The aims were to deal with past hurts, seek any possible conciliation and reparation, and to make the offender accountable for his actions. The charges were read and Norman acknowledged he had done them. Norman’s father spoke next. All those who report on FGCs (Family Group Conferences) say that one of the most powerful influences on offenders are the
voices of those near and dear to them, speaking about how their behavior has hurt them. Norman’s father expressed sorrow to all the victims for his son’s actions.”

Events did not end there, however. Plans were made to help Norman get a job, get re-involved with the church community, and to make arrangements to pay restitution for his crime.

**Victim-Offender Mediation**

Victim-offender mediation is probably the most common restorative justice program in North America; restitution and community service are widely used sanctions associated with this process. Victim-offender initiatives are proliferating nationally and internationally; there are over 320 victim-offenders mediation programs in North America and many more are operating around the world (including over 700 in Europe) (Bazemore and Umbreit, 2001).

In Minneapolis, the Central City Neighborhood Partnership has begun using a panel of neighborhood residents to meet with offenders charged with soliciting prostitutes. If the offender cooperates with the resident’s panel, the criminal case will be dismissed. At the conference individuals in the neighborhood tell the offender about the effects of prostitution on the neighborhood. Typical sanctions would be for the offender to contribute to an organization helping women escape prostitution, writing a letter of apology, and helping with the construction of a half-way house.

Within prison walls, members of victim impact panels speak to inmates. The purpose of these panels is to enable offenders to empathize with victims/or family members for their loss. Some individual victims are arranging meetings with convicts for the purpose of communication, to get questions answered about the crime. Meetings are arranged with the help of a mediator. Sometimes the offender used the occasion to make amends and ask for forgiveness. A kind of spiritual healing may take place, a healing involving both offender and victim. One Texas program focused entirely on victims has a waiting list of 300 victims wanting to meet their offenders (Morris, 2000). About half are the friends and family members of murder victims, another 25 percent the survivors of violent crimes such as assault and rape.

**Reparations**

In 1991, Vermont decided to overhaul its system, setting up reparative boards statewide to focus on repairing the damage that had been done to the victim and community. Composed of volunteer community members, such boards are charged with ensuring that low-risk nonviolent offenders are made aware of the impact of their behavior on the people around them (Marks, 1999). Offenders make amends to their victims and must complete a treatment program if treatment is needed.
How about the recent highly publicized cases of priest sexual abuse? Would restorative justice have any relevance there? The restorative process has been used and use successfully in at least one such case. An Internet search of newspaper articles revealed that restorative principles were used to resolve an especially flagrant example of priest abuse from the diocese of Providence, Rhode Island (Carroll, 2002). This matter involved lawsuits filed by 36 people who were sexually abused. What is remarkable about this resolution is that it was arrived at not through adversary procedures but through marathon mediation sessions. Church representatives treated the survivors with empathy. Instead of attacking the victims’ stories, church officials showed compassion; sincere apologies were offered. Final settlements varied in amounts proportionate to the severity of the abuse and the extent of pain and suffering. Consistent with the principles of restorative justice, the emphasis was on helping the victims, church, and community heal from the wrongs that had been done.

Restorative initiatives are not limited to work with individuals and families but also can be successfully applied to the unjust treatment of whole populations. Wartime persecutions, rape of the land of the people, slave labor, and mass murder are forms of crimes against humanity that demand some form of compensation for survivors and their families, even generations later, as long as the wounds are palpable. The Truth Commission held in South Africa to address the wounds inflicted by Apartheid is one of the most powerful examples of restoration. Compensation came in the form of public testimony and apology. Reparations often involve monetary exchange in addition to public acknowledgement of responsibility for the crimes against humanity. Demands for compensation by African Americans for the cruelty inflicted upon their ancestors through the slave trade and subsequent slavery, have received much attention in recent years but the wrongs have not been redressed. Similarly, the Australian government continues to deny reparations to the aboriginal people for their “stolen childhoods,” a reference to the earlier policy of removing the children of mixed blood and placing them with white families. Reparations have also been denied to the Korean relatives of innocent civilians slaughtered during the American-Korean war.

Successful examples of reparations are US compensation to families of Japanese-Americans held in concentration camps during World War II, and German compensation to survivors of slave labor camps.

**Restorative Justice and Social Work Values**

The primary mission of the social work profession, as spelled out by the American National Association of Social Workers (NASW, 1996), is to “enhance human well-being and help meet the basic needs of all people who are vulnerable, oppressed, and living in poverty.” The empowerment approach is the basic organizing framework of social work practice. The overall goal of empowerment practice is social justice.

Empowerment describes the transformation from individual and collective powerlessness to personal, political, and cultural power (GlenMaye, 1997). Of special relevance to victimization is the gaining of a sense of personal power, assu-
ming responsibility for recovery and change which may entail helping others. Of special relevance to criminal behavior, and without which change is unlikely, is the taking of personal responsibility for one’s actions and one’s life. We need to consider the possibility that involvement in crime is a way asserting personal identity and power by the powerless, while at the same time it can be a way of getting back at society. The counseling relationship can serve as a powerful tool in helping clients find an alternate course toward self-fulfillment, especially a counseling relationship that seeks to help people build on their strengths. The effort to build or enhance personal power in people who feel powerless is a basic component of the strengths perspective. To learn how the strengths perspective can be combined with the principles of restorative justice, see van Wormer (2001, 2004). This model, designed for social work practice in corrections is called the strengths-restorative approach.

Consistent with basic social work practice, restorative justice, originates at both the grassroots and macro levels, often through court officials who define how the social institutions or justice are set up, and the specific procedures that apply to achieving justice for victims, offenders, and their families. Restorative initiatives thus integrate both systemic and populist components. Participation by trained volunteers is an active component of many of these initiatives. The value system, on which restorative justice is based, moreover, is directly compatible with the strengths approach to treatment. Restorative justice is about helping rather than hurting people, building on the good in men and women rather than focusing on the bad, working toward the future instead of dwelling on the past, listening and not dictating—all the same underlying principles of a strengths perspective of social work.

An international movement, restorative justice neatly achieves the NASW standard (NASW, 1996: 6.04c) which states that “social workers should promote conditions that encourage respect for cultural and social diversity within the United States and globally.” The United Nations, in fact has taken notice of alternative forms of justice, such as offender/victim mediation and informal means of dealing with certain crimes as a development consistent with human rights initiatives (RJ, 2001, 2002b). Guidelines on the use of restorative justice recently have been consolidated for use internationally.

The mission of social work in the United States is rooted in a set of core values. These values are relatively comparable to those laid out by the International Federation of Social Workers. According to the NASW Code of Ethics (1996), the core values of social work are: service, social justice, dignity and worth of the person, importance of human relationships, integrity, and competence. These values are more or less universal; they parallel peacemaking concepts ingrained in the Universal Declaration of Human Rights.

Service comes into play as social workers, in their capacity of victim advocates work to set up programs of victim-offender reconciliation. In their work with offenders, the social work focus may be on helping the offender make amends in the interests of rehabilitation. Service to the community enters the picture as a program is instituted for community justice.
Restorative justice very closely relates to social justice or fairness in that the victims and offenders each have their interests represented in the proceedings. Restorative justice as a holistic approach moves beyond simplistic either/or, winner-take-all modes of settling disputes into the realm of negotiation and the attempt to be fair to both parties. Third-party solutions can maximize benefits for all and minimize social costs. When lawyers are involved, they work with each other rather than against each other.

Social justice is provided to the victim in that the effort is made to restore what the victim has lost, while at the same time requiring offenders to face up to the consequences of their act or acts and the personal pain caused to the victim, victim’s family, the offender’s family, and the community (van Wormer, 2001). These strategies can be combined with those of community-based corrections to create multifaceted programs of benefit to all the individuals involved (Hahn, 1998). Rehabilitation rather than retribution is the major thrust of their approach.

Through embracing members of the extended family, restorative justice, moreover, has been found to be highly effective in work in minority communities. These minority communities, including Native, African Americans, and Latino traditions, are collectively rather than individually focused. The spirituality components, non-bureaucratic processes, and reliance on mutual aid are compatible with the values and traditions of the Latino community (Gutiérrez and Suarez, 1999) as well as with African-centered principles (Carter, 1997).

Restorative justice with its emphasis on honesty, integrity, and its roots in religious forms of resolving disputes, leaves the door open for participation by spiritual leaders as well as to expressions of remorse by offenders. Part and parcel of this growing movement to deal with crime is the role that healing and even, at times, forgiveness plays. It can help offenders face their actions and grapple with their futures (Lampman, 1999). The focus on spirituality makes this approach especially appealing to minority groups, for example, Christians, those involved in indigenous rituals in New Zealand, and Canadian aboriginal people (cf van Biema, 1999; Bonta et al., 1998).

In The Spiritual Book of Restorative Justice (edited by Michael Hadley, 2001), multi-faith perspectives and traditions including aboriginal religion, Buddhism, Christianity, and Islam are examined in terms of key ideas and practices of restorative justice. The essence of Christianity, as taught to every Sunday School child is contained in Jesus’ Sermon on the Mount. “Blessed are the merciful. Blessed are the peacemakers.” Forgiveness and redemption are primary themes of the New Testament. Unfortunately, as Hadley indicates, these messages became prostituted when Christianity was institutionalized by the power structure. The same with Islam. The Islam of the Koran in which Allah is compassionate, forgiving, and merciful has become militant, harsh, anti-woman in some cultural incarnations (cf Ammar, 2001). Nonviolence in all things is a central stance of Buddhism. Hadley explains this stance not in terms of Buddhism’s seeming otherworldliness but because of the psychological insight that violence breeds further violence. Hence Buddhism rejects retribution in favor of compassion. Hadley cites Loy (2001) in showing how uniquely in Tibet, the moral standards of
the Buddha influenced every part of the legal system. In more secular societies, however, state justice is in sharp conflict with traditional Buddhist justice.

As social work increasingly recognizes the need to deal with the spiritual as well as the biopsychosocial needs of their clients, a recognition not focused among kindred professions (apart from the ministry), social workers could play a major role as policymakers and therapists in restorative justice meetings. This involvement would be especially appropriate today as the US Council on Social Work Education (CSWE) has revised its curriculum standards to include spiritual development as central to an understanding of human behavior in the social environment (Miller, 2001).

*Dignity and worth of the person* is the third core value of social work. Through restorative justice, the dignity of both offender and victim are maintained through a process that is diametrically opposite to customary criminal justice proceedings—publicity attached to the arrest and trial, the indignities and accusations especially of witnesses by lawyers on the opposing side. Here, there will be a meeting; each side will have advocates and supporters who are given a chance to speak. The focus on the offender is on the offender’s whole personality, not merely on the act or acts that have caused the harm. Keep in mind that this process typically follows the formal adjudication of guilt or innocence and that at this meeting, the offender owns up to his or her wrongdoing and apologizes. Ideally, this informal but emotionally intense process humanizes the offender and the victim. The emphasis on restoring the individual to the community rather than removing him or her from the community is an aspect of restorative justice of special benefit to women and minorities who so often fail to get individual attention through the adversarial process. In this framework voice is given to women’s concerns, for example, of victim’s concerns about feelings of safety.

*Importance of human relationships* is clearly a theme of the restorative justice movement. Offenders are restored to the community often through community service projects and psychologically through the contrition and remorse shown toward the victims. For juvenile offenders, such a drawing together of offender and victim in a face-to-face meeting might be especially conducive to helping them turn their lives around. In a summary of his program evaluation findings, Umbreit (1998) reported that for victims, while the possibility of receiving restitution appeared to motivate them to enter the mediation process, after mediation they reported that meeting the offender and being able to talk about what happened was more satisfying than receiving restitution.

*Integrity* is a core social work value strongly evidenced in a format built on the truth and frank disclosure rather than on creating a certain image to impress members of the jury. Take the Canadian healing circle as reported in a Toronto Star article (TS, 2001). According to this news story:

“All the people touched by an offence have an opportunity to speak—at length—about how they were affected. That means an offender sees and hears, firsthand, the human impact of his or her actions. It means the victims hear why the offence occurred. And it means the offender hears his or her own voice, often apologizing
through tears, offering to make amends. At the close, a contract is drawn up
detailing what took place and how the offender will repair the harm.”

This brings us to competence, the sixth and final core social work value. Social
workers, through their training in the social aspects of human behavior, in their
training and work with both victims and perpetrators, have experienced vicariously
the tragic consequences of violent and non-violent offenses. The profession’s 100
plus year history of struggling with ways to promote social justice for oppressed
populations demonstrates a commitment to vulnerable groups in society such as
persons with mental illness and survivors of domestic violence. Through the
School of Social Work at the University of Minnesota, St. Paul, the National
Restorative Justice Training Institute trains social workers and others on mediation
and conflict resolution in communities, schools, work places, and with the justice
system. Support and technical assistance are provided by systemic change in the
juvenile justice system.

Evaluation Studies

What do the research results show? Restorative justice reform is an evolutionary
process that begins with small pilot projects in jurisdictions wishing to implement
systemic change in juvenile and criminal justice (Bazemore and Umbreit, 1998). In
order to ensure the continuation of such programs, it is important to examine the
impact of initiatives on the participants, and to gauge the success of the inter-
ventions in achieving restorative justice goals; such goals include victim and
offender progress toward rehabilitation.

The evaluation research varies from general descriptions of particular inter-
ventions to more carefully conducted studies with comparison groups. For the form
of intervention most often studied—victim/offender mediation—the evidence of
program effectiveness has been consistently favorable. For example, in Vermont,
where the restorative justice model is used, preliminary studies show that over 80
percent of the more than 4,000 offenders who have gone through the mediation
process have completed it successfully and that they are less likely to reoffend than
those who go through probation.

In Winnipeg, Manitoba, in a diversionary project called the Restorative
Resolutions Project, of 81 cases accepted into the program by officials, results were
moderately successful. Over $130,000 in restitution was paid to victims; many
clients followed through the community service work; one-quarter of the victims
received written apologies from the offender; and clients demonstrated statistically
significant lower recidivism rates as a result of participation in the program. One
shortcoming of this project was the refusal of victims to meet the offenders face to
face; instead, they submitted statements. More educational and counseling work
presumably needed to be done to prepare victims for a personal encounter.

Perhaps more compelling than the survey findings on victim satisfaction are
the personal stories collected by Ruth Morris (2000) in her world travels and
Howard Zehr (2001) in his interviews with crime victims years after their
victimization. John Sage, for example, whose beloved sister was murdered, has
found peace in speaking on a victim impact panel that visits prisons. “I’d never seen a group of people with less empathy in my life,” he shares, “But I saw things happen. People’s lives changed over a period of 90 days. I saw men admit to things they had never admitted to anybody.”

Conclusion

Restorative justice is a multidimensional approach that can take into account social factors in the backgrounds of people related to their wrongdoing without in any way diminishing the magnitude of the loss experienced by the victim. More often described in terms of what it is not, rather than what it is, restorative justice is deceptively simple. In fact, this is just one of its many paradoxes. Among the paradoxes, restorative justice is:

1. in seeming opposition to the dictates of criminal justice, yet often operating through criminal justice auspices;
2. visionary, yet highly practical;
3. a new approach that goes back to ancient customs and traditions;
4. a person-centered and kind way of dealing with crime in a “lock-'em-up era;
5. victim-focused yet beneficial to the offender as well;
6. secular yet often with religious overtones;
7. a beacon of light to shine in the darkness.

An indigenous approach that can be applied universally, this innovation has been borrowed from the non-industrialized regions of the world rather than from areas of advanced technologies.

With regard to the matter of reparations for violations of human rights to whole classes of people, the restorative process is the method of choice for addressing the wrongs that have been done, both by individuals and by the state. In terms of its ability to incorporate Native rituals in healing meetings and in inclusion of religious concepts that are culturally specific to the participants, this model has special appeal for minority groups and indigenous populations.

Far from a threat to the human rights of the participants, restorative justice initiatives protect individual rights by providing options that no mere legalistic resolution could offer; participation is strictly voluntary. The inclusion of input from extended family and community representatives endears this approach to non-industrialized, non-urbanized regions of the world.

Unlike standard criminal justice practices, aimed more at retribution than restitution, the initiatives discussed here are empowering both to the individuals involved and to the society as a whole. At its heart, restorative justice builds on active involvement by offenders in their rehabilitation; this process of accepting responsibility for one’s actions and making amends to the victim and the community can be empowering for all concerned.

Restorative justice is a process designed to bring out the best in the offender—instead of becoming isolated and embittered, being grateful for fair treatment, and in the victim—instead of seeking revenge, accepting the offender’s apology and/or
restitution. Unique to this form of justice the victim-offender dialogue and victim healing that reportedly takes place. Empowerment, honest sharing, accountability of the offender, recovery of losses, and a sense of satisfaction in helping the offender to change are key features of this dynamic approach.

The challenge to policy planners is to learn ways of making correctional strategies more consistent with social justice and to participate in the planning, research, policy making, and facilitation aspects of this more humanistic form of justice.

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Abstract
This article offers a full-fledged overview of the meaning of the restorative justice theory for Afrocentric theory and vice versa. The author supports the positive effects of the restorative justice method, while bringing in new insights from Afrocentric theory. He notes that both theories are not representing a panacea for the crime issue in America, but stresses that they do in fact represent a viable alternative to the existing punitive approach in current crime prevention and intervention policy. A respective change of policy would be in line with the current international trend away from retributive towards restorative modes of crime policies.

Keywords: Restorative justice model, Afrocentric approach, traditional justice models, Eurocentric approach.

The criminal justice system is criticized as being ineffective in dealing with crime, the needs of the victim, and the rehabilitation of the offender. There is constant tension between individuals who believe in the “get tough” approach to crime and others who believe rehabilitation is the better approach (Sheffer, 1995). Many crime prevention advocates claim that the “tough on crime” approach may increase crime and the number of individuals in the system. They claim that the rehabilitation of offenders is a waste of time and money. The tension between the two approaches is very apparent in the African American community. Critics of both the juvenile and criminal justice systems argue, “that nothing works.” People feel victimized by both offenders (many of whom are African American) and by the perceived and real discrimination that occurs throughout the criminal justice system (McCoy, 1993; Johnson, 1993; Weitzer 1996; Miller, 1996). Even though community members feel victimized by “criminals,” many in the African American community feel that submitting a fellow brother or sister to the criminal
justice system may be an inappropriate response (Austin, 1992). Others in the same community believe that severe laws and harsher punishments are the answer to delinquency and crime problems in the community.

This is an exploration and overview of two theories and processes that are strong foundations for the responses to criminality and delinquency in the African-American community. The Restorative Justice Paradigm calls for a balanced response to criminality and delinquency (Van Ness and Strong, 1997). Unlike the traditional criminal justice mechanism, Restorative Justice requires the active participation of everyone impacted by the “criminal act.” The second approach is based in Afrocentric Theory. The theory is both used to explain criminality in the African American community and as the foundation for the response to criminality. Restorative Justice and Afrocentric Theory have many similarities and differences. This author believes that utilization of Afrocentric Theory could address some of the limitations in Restorative Justice as applied to African Americans. However, the process and substantive foundations of the theory are applicable to all ethnicities and cultures. Clearly, neither Restorative Justice nor Afrocentric Theory is a panacea for the crime issue in America, but are viable alternatives to the current crime prevention and intervention models.

The Rule of Law

Americans tend to believe that the use of the law is the best way to deal with all social problems, especially crime and delinquency (Elikann, 1996). They believe that without law, the people would not control themselves and a state of anarchy would exist (Hasnas, 1995). Restorative Justice moves away from the state as the primary actor in dealing with crime. This is a movement that many other countries have initiated in dealing with crime and delinquency issues. However, the United States has been slow in adopting this approach and has continued to be more punitive towards juvenile offenders (Baird and Samuels, 1996). The State’s objective seems to emphasize maintaining, “law and order” rather than seeking justice for the offender, the victim, and the community.

“The reason why the myth of the rule of law has survived for 100 years despite the knowledge of its falsity is that it is too valuable a tool to relinquish. The myth of impersonal government is simply the most effective means of social control available to the state” (Hasnas, 1995: 219).

The Eurocentric paradigm assumes that the state (under the rule of law), rather than the community, carries the responsibility of dealing with crime and other social problems. This approach, which is derived from English common law, uses the state as the primary agent in dealing with the behavior of individuals, treatment of offenders, and compensation for victims. The community is subordinate to the needs of the victim and the rights of the defendant.

The Eurocentric approach in dealing with crime in society has its roots in the value of individualism (Nunn, 1997). This means the individual is responsible for his or her actions, the system must reform the individual, or the “individual” must
compensate another “individual.” Also important is the assumption that the voice of the community is the same as the voice and values of the state. In addition, under most Eurocentric legal paradigms, the rule of law trumps the concept of justice. Social control and punishment of individuals who violate the statutes remain the primary goal (Nunn, 1997).

This approach has caused mistrust of the criminal justice system by many African-Americans. The recent events covered by the mainstream and popular media, including the O.J. Simpson trial, the Susan Smith situation in South Carolina, Charles Stuart fiasco in Boston and the Rodney King trials, have highlighted the mistrust of the criminal justice system by African-Americans. In certain situations, this approach has led some legal scholars for African Americans to reject the legal system and nullify the law (Butler, 1995).

There are many criticisms of the current “Justice” approaches and models. Victim’s rights advocates argue for the need to hear the voices of victims of crime. Many communities of color claim that their voices are not heard. Others state that the offenders are not held accountable for their crimes. These critiques led to the initiation of the Restorative Justice paradigm. The following is a brief summary of the current models used in the juvenile and criminal justice systems. Restorative Justice, which has its roots in traditional justice approaches, will be analyzed and compared with Afrocentric Theory.

**Current Criminal Justice Models**

When prisons were initiated in the United States, rehabilitation of the offender was the primary focus. However, as early as the turn of the twentieth century, retribution became the goal of the criminal justice system (Pound, 1907). Traditionally, the primary focus of juvenile justice falls under the rehabilitation model and the contemporary paradigmatic foundation. Political and judicial rhetoric supports the concept of “best welfare of the child.” During the nineteenth century, however, reformers pushed for a different “judicial” model for children.

“The juvenile court movement was influenced by what has come to be called the rehabilitative ideal, which is a belief that human behavior can be modified. As a result, the objective of the juvenile justice system was to reform and rehabilitate juveniles in order to transform them into law-abiding citizens. Children were seen as being much more vulnerable than adults, but also more amenable to change. This made them better prospects for rehabilitation” (Melli, 1996: 376-77).

This model falls under the Eurocentric model. The movement coincided with the wave of non-White Anglo Saxon Protestant immigrants in the United States.

“The founding of the juvenile court coincided with a period of waves of immigration and interest in the expansion of state intervention in families for the purpose of protecting the children, “Americanizing” them, and improving the quality of their lives” (Melli, 1996: 377).
At its inception, the structure of the juvenile court did not mirror the adult criminal court and the procedural rules of law were not a paramount concern. Theoretically, the entire system, from the police to social services, was in place to treat, reform, and rehabilitate the juvenile. The assumption was that the juvenile offender is “salvageable,” so the law attempted to protect the juvenile from the powers of the adult criminal justice process.

Ironically, one of the reasons juvenile courts moved away from the pure rehabilitation model was because of the due process movement of the 1950’s and 1960’s. Adult courts afforded more procedural protections (i.e., the exclusionary rule, free legal counsel, more representative juries, and protections from coerced confessions) during this time period and juveniles did not have these constitutional protections. In 1960s, *In Re Gault* (1967) and *Kent v. U.S.* (1966) started the due process revolution for juveniles and the move towards the formalization of the juvenile court (Melli, 1996).

Today, two major forces advocate the abolishment of the rehabilitation approach. One group states that the treatment is ineffective and the retribution model is more appropriate for juvenile offenders. Another group advocates the abolishment of the juvenile court and its rehabilitative idea, because due process and other procedural safeguards can only be afforded to youthful offenders through adult court proceedings (Melli, 1996; Bishop, 1996).

The current trend is to move away from the juvenile justice rehabilitation model to the traditional adult model. States have enacted provisions that transfer juveniles to adult court for certain offenses. In addition, many practitioners and scholars are advocating for the abolishment of juvenile court (Ainsworth, 1991; Bishop, 1996; Freidland, 1995).

Under the Punishment Model, criminal law focuses on the behavior of the individual. Possible societal factors are a minimal consideration when the law is applied. Discrimination, poverty, classism, and other factors are irrelevant. Behavior that violates the statutes may induce state action. The offender is answerable to the state, instead of the victim or the “community.” The sociopolitical framework implies that the law represents the will of the victim and the community (Hasnas, 1995). Since the crime is a violation against the state and not the individual citizen, the victim plays a relatively minor role in the proceedings. In addition, the offender plays a minor role in the proceedings as well. The primary focus is to convict the defendant, achieve revenge for society, incapacitate the offender, and send a message to deter others from committing the same act. In fact, most Americans believe that justice is not attainable because judges are not harsh enough. The most important justification for the use of criminal law is general deterrence.

The general perception of the public is that punishment of the offender will deter others from committing the same act. In a study, Gertz and Gould (1995) supported prior research that found no direct link between the fear of punishment and personal level criminal inhibitions. The punishment approach may weaken the community (Bazemore and Umbreit, 1995) by taking productive individuals out of the community in the prime of their lives (Miller, 1996; Elikann, 1996). In addition, the prison population is at or near capacity and costs the American public billions of dollars a year (Elikann, 1996).
Due to the lack of victim participation in both the rehabilitative and retribution models, the activities of many social movements gave birth to the victim rights’ approach. Since the inception of the present criminal justice process, the role of the victim has been subordinate to the role of the offender (and defense attorney) and the state (Henderson, 1985). Victims and their advocates argue for a more prominent voice in the entire process, from arrest to parole hearings (Henderson, 1985; Long, 1995). The strength of the victim rights’ model is that it attempts to satisfy the material and non-material needs of the victim.

In this model, as with both the punishment and rehabilitation model, the state remains an active participant in the process. The state determines if the victim is deserving of compensation for the harm. The common thread between the punishment, rehabilitation, and victims’ rights models is the active role of the state. The state dictates the process through the rule of law.

**Traditional Justice Models**

Ancient cultures, including many traditional African, Japanese, Native American, and Polynesian nations have used and/or are presently using this approach.

“In cultures that emphasize the community rather than the individual, the goal of dispute resolution may be harmony rather than the protection and vindication of individual rights. At a time in American history when we increasingly suffer from a lack of harmony and community, elements of these ancient forms of dispute resolution are particularly relevant” (Benham and Barton, 1996: 626).

This approach is popular in Native American culture (Yazzie, 1997) where justice is a way of life and not a product of the rule of law.

“The American paradigm has its roots in the worldview of Europeans and is based on a retributive philosophy that is hierarchal, adversarial, punitive, and guided by codified laws and written rules, procedures, and guidelines. Punishment is used to appease the victim, to satisfy society’s desire for revenge, and to reconcile the offender to the community by paying a debt to society. It does not offer a reduction in future crime or reparation to victims. The indigenous paradigm is based on a holistic philosophy. Harmony is the key and there is a mending process for renewal of damaged personal and communal relationships. Victim and offender save face and the physical, emotional, mental and spiritual well-being of offender, victim, and community must take place” (Melton, 1995: 126).

The ancient approaches to justice are the roots of the Restorative Justice Model and can be an effective means of achieving justice and harmony in disjointed and chaotic communities (McElrea, 1997). In these systems, the state transfers some of its power to the community. The true concept of Restorative Justice falls under many of the “buzz” words that our politicians use to argue for less governmental intervention, “community empowerment,” and “it takes a village to raise a child” (McCold and Wachtel, 1997).
The use of traditional forms of dispute resolution is still present in African countries, even though the dominant legal system is one with European roots. Interviews were conducted with scholars, lawyers, teachers and individuals interested in conflict resolution from four countries in Africa; South Africa, Kenya, Nigeria, and Ghana. I asked each individual about their traditional ways of resolving disputes, conflicts and “crimes” in their native culture.

The approaches were very similar to the approach of the Kpelle tribe in Liberia (Benham and Barton, 1996; Vyas, 1995). An informal form of dispute resolution is the moot or house palaver found among the Kpelle of Liberia. An anthropologist who conducted field studies on Liberian informal dispute resolution methods in 1957 and 1958 argues that “the genius of the moot lies in the fact that it is based on a covert application of the principles of psychoanalytic theory which underlie psychotherapy.” Among the Kpelle of Liberia, disputes are settled formally in official and unofficial courts of town chiefs or quarter elders, or informally in associational groupings such as church councils or in moots. Because the formal court hearings are coercive in nature, they do not provide the best forum for cases involving ongoing relationships. The moot, on the other hand, is an informal airing of grievances that takes place in the home of the complainant before an ad hoc group of kinsmen and neighbors (Benham and Barton, 1996: 632).

Each interviewee stated that their native tribes used a form of conflict resolution that mirrored the Western philosophy of Restorative Justice. They emphasized that the elders of the tribe or village mediated or arbitrated the dispute between the parties. All family members and individuals impacted by the problem participated in the process. Also important, however, is that the definition of family was much broader, especially in South Africa and Nigeria, and encompasses individuals who may not be “blood” relatives. The goal of the process, in each country, was to restore the relationship between the parties and obtain spiritual harmony in the community.

Restorative Justice Model

The concept of Restorative Justice requires a paradigmatic shift in the goals and objective of the criminal justice system (Zehr, 1990). It seeks to “humanize” the participants in their quest for justice and requires that the community becomes an active participant (Bazemore, 1994; Umbreit, 1995). Under the Punishment Model, the offenders may be encouraged to focus on themselves rather than their victims or the negative impact on the community. The Rehabilitation Model tends to focus on the needs of the offender, while the Victim Rights Model focuses on the victim. The Restorative Justice model does not ignore aspects of the other models, but attempts to take a more balanced approach.

In the United States, there is recognition that the implementation of Restorative Justice must take place within a retributive or rehabilitative system. Because of this, both the offender and victim may sacrifice rights and there may be other legal and political issues delaying the full implementation of a Restorative Justice approach (Joseph, 1996). An effective Restorative Justice process gives “priority to reparation rather than retribution. This calls for a change in social ethics and different ideology of society” (Walgrave, 1995: 245). However, the conflict between the principles of indi-
individual and collective justice should not be a hindrance to the implementation of the Restorative Justice process. In other words, the goal of repairing relationships could occur within the current justice system.

“a society governed with the aims of individual and collective emancipation, in which autonomy and solidarity are not seen as diametrically opposed, but as mutually reinforcing principles” (Walgrave, 1995: 245).

Restorative justice attempts to repair the damage between the offender, the victim, and the community (Bazemore, 1994). Presently there are programs that have used the Restorative Justice Model as its foundation. Programs in New Zealand, Australia, Japan, and the United States use parts of the Restorative Justice philosophy (McElrea, 1997; Bazemore, 1994; Umbreit et al., 1994). Umbreit, Coates, and Kalanj (1994) report that many of the programs in the United States rate success using offender and victim satisfaction as a primary measure.

Afrocentric Theory and Process

Much of the delinquency and crimes occur in their respective community and fall under the intra-racial category. In order to implement a Restorative Justice process, there must be a clearly defined community, rather than state, need. Because the offenses tend to be intra-racial, race is the focal point in the conceptualization of “community.” Umbreit and Coates (1999) and Arrigo and Schehr (1998) argue that there are serious multicultural implications and concerns that must be addressed under the Restorative Justice model. Pattison (1998) states that culturally appropriate programs for minority juvenile offenders are not only a moral right, but also a legal right. By utilizing the Afrocentric Theory and process, including the “Rites of Passage” as the foundation, communities can address and improve the Restorative Justice process for non-European American cultures (Warfield-Coppock, 1992; Harvey and Rauch, 1997). The need of the community, which includes the victim, offender and significant others, is emancipation. Because both the Restorative Justice and Afrocentric paradigms focus on community liberation or emancipation, it is imperative that the traditional Afrocentric approach be the Restorative Justice model in the African American community. Theoretical foundations of criminology are used to explain criminal behavior leading to the creation and implementation of criminal justice policies. Afrocentric Theory rejects many of the conclusions of these theories.

“The Afrocentric theories of human behavior reflect concepts of human behavior developed in European and Anglo-American culture. The practice of using Eurocentric theories to explain the behavior and ethos of African Americans can be inappropriate because a major assumption of the Afrocentric paradigm is that social science theories are derived from the specific experiences and cultural perspectives of the theorist” (Schiele, 1996: 285).

The assumption is that current research and the application of certain policies have
“led to a hegemony of knowledge and of knowledge validation (especially apparent in academia) that omits or marginalizes the indigenous worldviews of people of color” (Schiele, 1996: 286).

Afrocentric Theory can be used to offset the theories that explain black social problems. Factors used to explain European social problems rarely are the same factors used in explaining African American social problems.

“Those who attempt to explain the prevalence of these conditions (academic failure, teenage pregnancy, female-headed families, drug addiction and criminal involvement) among Blacks tend to argue one of three positions: genetic inferiority, culture of poverty, or racial oppression. White Americans have higher rates of academic failure, teenage pregnancy, female-headed families, drug addiction, and criminal involvement than do Europeans. However, the rate differences between White Americans and Europeans are almost always explained in terms of differences in environment and cultural conditions” (Oliver, 1989: 15-16).

In this country, major theoretical approaches drive policies in various directions. The Eurocentric explanations to social problems and criminality tend to support an individualistic approach to crime. Instead of focusing on genetic inferiority, culture of poverty, or racial oppression in explaining Black criminality, Afrocentric paradigms use a structural/cultural theory. The crux of the theory is that structural pressures and dysfunctional cultural adaptation to those pressures play out as unacceptable behavior in African American communities (Oliver, 1989). Unlike the foundation of both the race oppression and culture of poverty theories, African Americans do not desire the same individualistic objectives and goals as European Americans. It is suggested that an Afrocentric approach should be used to counteract the effects. According to Oliver (1989), African Americans need a two-pronged approach:

1. development of an Afrocentric ideology
2. intolerance of the “tough guy” image within the community

This process would take place with all of the socialization agents, including response mechanisms to criminality. Under the “tough guy” scenario, the primary “community-based” socialization agent is the criminal justice system, which includes detention centers, jails and prisons. The Rite of Passage for many young African-American males into the Eurocentric culture occurs in prison (Miller, 1996). An “African” centered perspective is the foundation for the explanation and analysis of “crime or delinquency” in the Black community. Crime is

“a frame of reference wherein phenomena are viewed from the perspective of the African person. Afrocentricity is a state of mind, a particular subconscious mind-set that is rooted in the African ancestral heritage and communal value system. The human is center rather than political and economic power” (Hoskins, 1992: 253-54).

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After exploring the social problem through an Afrocentric lens, the solution of the problem should be grounded in an “African” centered approach (Semmes, 1981). The primary focus is not retribution for the criminal act, the rehabilitation of the offender to a perfect Eurocentric citizen, nor the compensation of the victim. The Afrocentric approach does not ignore these concerns, however the liberation of the community is the primary concern. A true understanding of one’s culture is needed to achieve emancipatory literacy. This, in turn, would lead to individual and collective liberation and freedom. As Harris (1992: 155) explains:

“The central motivation of African American life is the desire to achieve freedom and literacy. Freedom is the ability to conceptualize the world in ways continuous with one’s history. Literacy is the application of historical knowledge as the confluence between personality and situation dictates.”

Bekerie (1994: 133) asserts that the objective is for the African-American community to attain emancipatory knowledge. Afrocentric theory is a theory of affirmation. It is a theory conceived to generate new knowledge and to pursue the path of liberation. It assumes that the explanation of criminal activity (or any “social problem”) and the remedy for it are rooted in Afrocentric ideology. Similar to the concept of Restorative Justice, the community, not the state, would be the active participant in the process. The Afrocentric Approach parallels the Restorative Justice Model by requiring a major paradigmatic shift away from the “State” controlled, individualistic models of dealing with crime. Also, both models call for participation of the victim, the offender, and the community (Umbreit, 1995).

The Afrocentric approach differs from the Restorative Justice approach in three major ways. First, the explanation for the “crime” is viewed from an African-centered perspective. Crime is not a violation of a state rule, but a disruption of the spiritual harmony of the community. Whereas, the Restorative Justice approach assumes that the individual is in need of rehabilitation to conform to Eurocentric standards, the Afrocentric perspective does not assume that the Eurocentric standard is the proper “rehabilitative objective.” The primary goal is the liberation of the community through emancipatory knowledge of all community members. Second, priority is given to the community rather than the individuals involved in the dispute. The Afrocentric perspective is more communal than individualistic. In addition, the victim/offender dichotomy is not as distinct as in the Eurocentric models. These individuals are simply members of the community and community harmony is the primary focus. Third, the Afrocentric perspective emphasizes the spiritual as the main source of knowledge, so that morals and justice supersede the law.

The vehicle used under this approach would be the “Rites of Passage” (Delaney, 1995; Harvey and Rauch, 1997; Warfield-Coppock, 1992; Gavazzi, 1996). Ritualism is a process that is not only used in traditional African cultures but is an integral aspect of the American legal culture. For example, the trial is a ritualistic process that follows a procedure that must fall within the guidelines of the court’s rules. There is a script that all of the players must follow and the judge is the director of this script. The concept of ritual is also important under the Restorative Justice paradigm, especially with the “alternative dispute resolution” that is used under this approach (Delaney,
Within the framework of alternative dispute resolution, the ritual dictates that participants move from their positions in the dispute to a situation where they can discover each other’s interest and come to a resolution. Cosmology, axiology, ontology, and epistemology are the four fundamental principles of Afrocentric ritual (cf Table 1). According to Warfield-Coppock (1995), many African-American programs that claim to be Afrocentric would be closer to an enculturated program. Some Restorative Justice programs, both within and outside of the African-American, communities would also be enculturated ones.

### Table 1

<table>
<thead>
<tr>
<th>Group Dimension</th>
<th>Eurocentric</th>
<th>Enculturated</th>
<th>Afrocentric</th>
</tr>
</thead>
<tbody>
<tr>
<td>cosmology (worldview)</td>
<td>control</td>
<td>survival</td>
<td>oneness with others</td>
</tr>
<tr>
<td>axiology (values)</td>
<td>materialistic</td>
<td>personal/material relationship between victim and offender</td>
<td>communal orientation relationship with the community is primary</td>
</tr>
<tr>
<td>ontology (nature of people)</td>
<td>“dog eat dog”</td>
<td>humans need to be rehabilitated or treated</td>
<td>humans are naturally good</td>
</tr>
<tr>
<td>epistemology (source of knowing)</td>
<td>self-validation through the scientific method</td>
<td>self and spirit is secondary</td>
<td>spiritual source is primary</td>
</tr>
</tbody>
</table>

The move toward an Afrocentric approach is a process that takes place within a Eurocentric social and political environment. Afrocentric (or quasi-Afrocentric) approaches have been utilized with some degree of success. Swigonski (1996) argues that the Afrocentric approach in social work was used to offset the power imbalance between the client and the social worker. It allows the social worker to better understand his/her privileged status and provides for the empowerment of the client. Harvey and Rauch (1997) describe the Afrocentric process and the “Rites of Passage” as a means of dealing with many social problems through various socialization agents. He argues that the process allows individuals to better understand themselves through spirituality and the attainment of emancipatory knowledge. King (1994) describes an Afrocentric program that is in use for incarcerated males. However, this approach focuses only on the offender and evaluations were not completed due to the relative infancy of the program.

Woolredge (1994) evaluated an Afrocentric community corrections program for juvenile felons. Using recidivism as the outcome, he found no significant difference between individuals in the program and individuals who did not participate. He argues that this outcome is positive because of some of the intangibles, including an increase in spirituality, which could not be measured. There are cultural differences between African Americans and European Americans concerning the concepts of community, competition, and formal structures as it relates to the promotion of good relationships. Belgrave, Townsend, Cherry and Cunningham (1997) argue that the utilization of Afrocentric concepts of cooperation and spirituality were significant predictors of positive attitudes towards the non-use of drugs by African American youth.
Problems/Critiques

There are a few legal and social concerns that may hinder the development of a “true” Afrocentric Restorative Justice process. The spiritual component is very important in Afrocentric theory. This does not imply religiosity, even though Christianity and Islam are important components in the African and African American experiences. It should be made clear that spirituality does not mean an association with a religion or cult. Nor does it mean a belief or disbelief in a god, goddess, or gods. Instead, it is a moral concept closely aligned with what legal theorists call the natural law (Vacek, 1996; Kirk, 1994) and is equated with the value of justice, as opposed to law and order.

Because of the spiritual component, state involvement in an Afrocentric Restorative Justice Program could be perceived as a violation of the First Amendment, even though an Afrocentric approach is spiritual and not religious. However, the spirituality versus religious distinction has been rejected by the Federal District Court in *Warner v. Orange County Department of Probation* (1994) and the New York Supreme Court in *Griffin v. Coughlin* (1996). In both cases, the referral of a probationer in Warner and a prisoner in Griffin to an Alcohics Anonymous (A.A.) program by the state constituted a violation of the Establishment Clause of the First Amendment. Both courts held that A.A. was a religion, even though A.A. considers itself a spiritual program. As with the A.A. concept of spirituality, scholars have debated whether the spirituality of Afrocentric theory has its roots in some form of religion.

For example, El Obaid and Appiagyei (1996) explain the debate between two prominent Afrocentric scholars about the role of religion. Mazrui believes that religion plays a major role, while Asante de-emphasizes the role of religion. Further recognition of individual rights is mandated by changes in contemporary African societies, in which the advent of Islam and Christianity has had an important influence. This introduces into the debate the “Afrocentricity” argument, as put forward by M.K. Asante (1983), a self-declared “American Afrocentric.” The Afrocentric vision of Africa is devoid of Islam (equated with Arabs) and Christianity (equated with whites), a position developed in critical response to Mazrui’s vision of an altered Africa. Asante writes that Mazrui is incorrect in granting to Christianity and Islam the same place as the traditional and centering African culture found throughout the continent, perhaps less so in some places because of the density and intensity of the oppression and suppression of the indigenous people. He does not transcend his particular vision of Africa because of an ideological entrapment—combining both European and Arab hegemonic positions over the intellectual and cultural resources of Africa (Assante, 1983: 847-48).

In addition, Banks (1992) argues that, with African-American culture, one must take into account the influence of Christianity on the concept of spirituality. A true Afrocentric approach (or Restorative Justice process) would have no state intervention, therefore no constitutional question. Notwithstanding the holding in both Alcoholics Anonymous cases, the Afrocentric program could withstand a constitutional challenge if it could be shown that a compelling state interest (the African-American crime problem) outweighed the violation of the amendment.
Other scholars assert that an Afrocentric approach would promote separatism (Wilkinson, 1995). Hing (1993) argues that a healthy separatism, which involves the social and economic improvement of the race or ethnic group, is necessary for a truly multi-cultural society. Asante (1983: 4), states that “one must deal with the power relationship between the races in order to have effective intercultural communications.” Bekerie (1994: 138) argues that Afrocentric theory is “not anti-white or reactive.” Oybade (1990: 234) notes

“Afrocentric perspective does not aim to replace Eurocentricity as a universal perspective. Indeed, Afrocentricity recognizes the validity of other non-hegemonic perspectives—Asia-centered, America-centered, and even Europe-centered in its non-hegemonic form. It would allow for a pluriversal perspective … looking at the world from different centers rather than from a single angle is necessary if we are to have a better understanding of this diversified and multicultural universe.”

Other critics argue that a program or process that focuses primarily on one racial category would be violative of the Equal Protection Clause of the Fourteenth Amendment. Even though the criminal justice policies may have a disparate impact on young African Americans, a special program is only needed when intentional discrimination is present (Cole, 1995). Even if the policies and applications are discriminatory, the African Americans who are convicted violated the law and should be incarcerated. Cole (1995) argues that critics assume there are only two choices when it comes to dealing with crime, placing offenders in jail or letting them loose. They are not taking into consideration viable third options. Although the legal intent to discriminate may be hard to prove, there remains “compelling state interest” to set up a race specific program because of the impact on the Black community.

Many Afrocentric scholars and race scholars are critical of Restorative Justice and other forms of alternative dispute resolution (Gunning, 1995). First, the “Black Crime Problem” is examined and explained from a Eurocentric perspective. Secondly, the explanation leads to crime prevention and control policies, including Restorative Justice, which is grounded in the “rule of law.” Examining the social harms in the Black community from an Afrocentric perspective would lead to productive and culturally appropriate policies and programs. In addition, a reduction of prejudice and stereotypes can occur with a shared-values approach to Afrocentric Theory (Schreiber, 2000; Reviere, 2001).

Finally, scholars and practitioners of the Restorative Justice and the Afrocentric approach should not romanticize the concepts of aboriginal justice and Afrocentric Theory (El-Obaid and Appiagyeu, 1996). Traditional African communities are an amalgam of communality and individuality; there is a need to respect individual rights in a community context.

Instead of promoting a romantic vision of Africa, it is more useful to develop a pragmatic nexus at two levels: external and internal. Externally, the only role for Afrocentricity is supporting continental African elites in resolving the continent’s problems and dilemmas. Internally, the challenge is to overcome the anti-freedom aspects of traditionalism while, at the same time, respecting its cultural forms. This cannot be helped by advancing an emotive vision of Africa (cf Asante, 1983),
which is naive and demoralizing. As with any theory or practice, one must be conscious of both the benefits and obstacles with any approach to any social problem or issue.

**Conclusion**

International policies are moving away from the retributive modes of punishment (Arrigo and Schehr, 1998; Levesque, 1996; Shepherd, 1996; O’Connor and Treat, 1996; Kolstad, 1996). The addition of the Afrocentric perspective will enhance intercultural communication and increase the tolerance for alternative worldviews (Schreiber, 2000; Kershaw, 1992; Nagan, 1993). Even within the Eurocentric research framework, triangulation of different methodologies and approaches are assumed to lead to more reliable and valid conclusions (Schreiber, 2000). Due to cultural differences and other concerns, the use of the Afrocentric Theory within the framework of Restorative Justice will enhance the process for African American offenders and victims. This will be a valuable tool for the recruitment of African American facilitators.

Studies have shown that Restorative Justice has been successful from the viewpoint of both victims and offenders (Umbreit et al., 1994). However, additional research is needed under the Afrocentric methodological approach to measure whether Afrocentric values are present in the Restorative Justice process. The effectiveness of the process should be further examined. Incorporating the Afrocentric perspective with the existing research would only improve society’s understanding of Restorative Justice. This will ensure a focus of community liberation in the Black community, as well as other disenfranchised communities in the United States.

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Restorative Justice and Environmental Restoration, Twin Pillars of a Just Global Environmental Policy: Hearing the Voice of the Victim

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Abstract
The concept of restorative justice is carried further in this article to include its vital application in the field of environmental justice. The new method of environmental justice stands for a mixed array of ecological, ethical and moral premises positing how humans could live in peace with the rest of the natural world. The paper suggests that the way we treat the non-human world is reflected in the way we treat the human world, and concludes that we ought to hear the voices of nature first before devising environmental policies. Environmental policy needs to reflect the needs of the environment first and cannot be based on the believe that human inventiveness can fully restore degraded ecosystems. Arguments for reclamation founded on human benefits and interests alone are not apt to provide adequate protection for the environment. Nature needs, instead, to be perceived and understood as being intrinsically valuable by itself.

Keywords: Restorative justice, environmental justice, environmental protection and reclamation, environmental policy.

In the weeks and months following September 11, 2001 much of the public debate in America and around the world focused on issues of retaliation, retribution, and justice. The immediate response to being harmed by another, especially when that harm is great, is to avenge the act in a manner and to an extent that attempts to equalize the hurt.

Retaliation attempts to create a harm-quotient that, while not removing the hurt of original act of harm, will force the initial actor or offender to experience the relatively same amount of pain; thus balancing the ledger. In those rare reflective moments following great harm, the higher consciousness of humans knows that there is no way to equalize the pain caused by harm. A murdered family member, a lost career, or a broken relationship can never be fully recompensed. Rationally, most recognize this reality.
However, retribution can be a highly charged and reactive emotional response. At the level of instinct and in the immediacy of the harm-event people are not reflecting upon the necessity of a reasonable response. In fact, most feel obliged to balance the harm quotient because rejoinders to crime and harm are predicated on a punitive response. This liberal, democratic, political project postulates a contractual relationship between persons who legitimize retribution in the form of judicial punishment.

While an escalating cycle of violence and judicially sanctioned counter violence seem to be the norm, there are growing signs that many societies are attempting to escape the destructive and repetitive cycles of harm and retribution. The Restorative Justice Movement is one such example of this emerging effort. Restorative justice aims to bring fundamental change to the current western cultural response to crime and punishment. The Restorative Justice Movement sprang from the civil rights, feminist, and indigenous freedom movements of the 1960s and 1970s. While these earlier progenitors were largely focused on social transformation, the Restorative Justice Movement aims to dismantle the justice-industrial complex (Johnstone, 2002).

This system executes or incarcerates increasing numbers of its citizenry in a punitive and depriving environment. Restorative Justice seeks to replace the values of vengeance and retributions with a more humane and morally defensible stance of restoration, healing, and forgiveness. These are the primary ameliorative paths of crime victims and a highly effective way to “create just communities in which people who are in pain and suffering can heal with dignity” (Sullivan and Taft, 1998: 21) by meeting core human needs and maintaining primary relationships.

Restorative Justice conceptualizes how to hear the voice of and foster healing for those harmed without creating a disabling and harmful situation for another. With this background, the central aim of this essay is to consider the proposition that human beings are not the only constituency victimized by the raising tides of harm and violence. It is increasingly clear that the physical environment and its non-human members also suffer and are victimized by the rapaciously violent acts of others (Besthorn and Canda, 2002). This violence is perpetrated under the aegis of larger corporate or private market-based interests. While the impact of natural environmental harm may not be immediately evident to the casual observer, it is apparent that the earth community is approaching a place where humanity’s insidious acts of extractive and exploitative violence, often hidden behind the phalanx of growth, development, and continual progress, is bringing the earth’s carrying capacity close to the precipitous of collapse.

Many ethical frameworks and practical policies have been proposed to address this situation but none have found a more receptive hearing than the Environmental Restoration Movement. Environmental Restoration has emerged as one of the platform principles of western environmental policy. It is predicated on a mixed array of ecological, ethical, and moral premises positing how humans could live in relationship with the rest of the natural world. Its primary normative principle postulates that when natural settings are degraded by human interference, human beings have a responsibility to restore these settings back to a state of relative naturalness. Environmental Restoration is not without a considerably degree of...
controversy. In fact, it raises some of the most challenging questions in the field of environmental policy and ecological philosophy (Katz, 1997). The thrust of this current paper is to suggest a critical way that the Restorative Justice Movement may inform the Environmental Restoration Movement. Thomas Berry (1988) and others have suggested that the way we treat the non-human world is reflected in the way we treat others in the human world. This reciprocal interrelationship correlates with how we think about recreating an ecosystem after damage has been inflicted upon it and how we consider our relationship with the earth community before we inflict damage upon it.

Core Elements of Restorative Justice

Restorative Justice is not a unitary concept. It is frequently referred to in an attempt to describe the multiple dimensions of its evolution and current practice. Variously, it has been called relational justice, restorative community justice, transformative justice, and needs-based justice (Burnside and Baker, 1994; Morris, 1994; Sullivan and Tiifit, 1998; Young, 1995). Many restorative justice proponents are clear to make a distinction between restorative justice as a conceptual or philosophical framework and restorative justice as a socio-political movement aimed at changing the current criminal justice system (Johnstone, 2002; McCold, 2000; Zehr, 1990). Others suggest that there are many imposters to legitimate restorative justice initiatives and, as a result, many distorted versions of restorative justice. While using the restorative parlance, many reformist schemes still operate out of a punishment-based, retributive paradigm of justice (Harris, 1998; Sullivan and Tiifit, 2001).

While restorative justice is difficult to characterize, it is not unreasonable to attempt some broad definitional boundaries. Restorative justice is as much about individual and social values and ideologies, which guide community response to crime, as it is about best methods of preventing future offenses (Daly, 2000). It is not simply a new method to control crime and criminal behavior but suggests a fundamental reorientation to the manner in which communities view and respond to criminal acts. Katherine van Wormer (2002), social worker and ardent supporter of the Restorative Justice Movement, offers this straightforward characterization. Restorative Justice

“aims to change the direction of criminal law by focusing it on the needs of victims and on repairing communities. Unlike retributive justice, which focuses on punishment of the guilty offender, restorative justice takes a more caring approach. Proponents of this non-adversarial model adopt a different lens for viewing crime and rectifying the harm done by the crime. Restorative justice entails active involvement by members of the community operating with official sanction of the local court.”

Restorative Justice has ancient roots. Several theorists have noted that the impetus toward restorative justice, as currently conceived, is actually a rediscovery of what most ancient cultures understood at very intuitive levels (Braithwaite, 2000;
Findlay, 2000; Yazzie, 2000). Before the establishment of the current law-based, punitive, state-sanctioned model of criminal justice, many cultures viewed crime as a breaking of community relationships. Justice did not generally take the form of punishment and removal because close personal ties and strong communal relationships were the lifeblood of survival in dangerous environments. Rather, justice aimed at repairing the damage done to both parties of a harm event. Crime was viewed as an offense against the community to which the offender would continue to be relationally connected.

While restitution played an important role in early justice systems, it was the reestablishment of community peace and the mending of broken relationships that made up the core of earlier cultural responses to crime (Sullivan and Tifft, 2001). For example, indigenous populations in North America, South America, Australia and New Zealand have had various forms of healing circles to bring victim, offender, and community together to give a deep and resonant voice to the complexity of the causes and effects of the harm event (Taraschi, 1998; Yazzie, 2000). Everyone spoke so that the deep impact of the crime upon the victim, why the offense occurred, how the community was impacted, and what would be done to repair the harm was understood by the whole community. The target of this communal event was to repair the damage and reestablish relationships. Van Wormer (2002) notes that a ceremonial feather or talking stick was passed from speaker to speaker to emphasize the importance of fully hearing the voice of the person giving expression to their hurts, sorrows, and concerns. In this manner, ancient traditions placed the focus on conversation intending to lead to a state of personal and collective reconciliation rather than impersonal distancing resulting in separation and punishment. Van Ness and Strong (1997: 21) compare and contrast the ancient and current patterns (cf Table 1) in the context of the nature of the crime, the parties to the crime, and the goal of justice.

Table 1

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<thead>
<tr>
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<th>Ancient pattern</th>
<th>Current pattern</th>
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<tr>
<td>Crime</td>
<td>injury to victims and their families in the context of the community</td>
<td>violations of the law</td>
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<tr>
<td>Parties</td>
<td>victims, offenders, community and government</td>
<td>offenders and government</td>
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<tr>
<td>Goal</td>
<td>repair damage and reestablish right relationships</td>
<td>reduce future lawbreaking through rehabilitation, punishment, deterrence and/or incapacitation</td>
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While proponents of the Restorative Justice Movement are not, necessarily, of one mind regarding the essential character of how societies deal with harm, there are frequent themes that epitomize some common viewpoints. Johnstone (2002) identifies five core themes that are at the heart of many Restorative Justice Systems.

First, modern western patterns of responding to crime represent a relatively new position, which is inconsistent and alien to most non-western and earlier cul-
tural traditions (Johnstone, 2002). Early tribal groups did not make the same distinction between crime and conflict as modern western societies. Crime was not the rendering of an abstract social contract but a break of communal relationships. The primary aim of justice was to restore peace and heal relationships.

The second theme involves the moral questions that societies should ask after a crime has been committed. For Restorative Justice, the principle question is not what should be done to the offender but what does the victim say about the offense and how restoration should precede. Specifically, it means listening intensely to what the victim wants when harm has been inflicted upon her or him. Modern victim rights movements, although advancing; still tend to subordinate the voice of the victim to the mandates of the judicial process. While victims are heard, they still have little or no input into wider matters concerning the pursuit of formal charges or the nature and scope of restitutional endeavors. Restorative Justice posits giving primary voice to victims relative to how a crime is defined and resolved. Modern criminal justice protocols rarely hear this deeper voice of the victim because it believes it already knows everything they will say or it has not developed the skill to hear the voice of healing and reconciliation, since the language of punishment and retribution is such a cacophony.

The third theme concerns the way communities and victim(s) relate to the offender. Restorative Justice presumes the offender and the victim will be involved in ongoing interactions with one another. The offender is a member of the community rather than an alien or enemy from the outside. There is no arbitrary or abstract separation between the victim, the offender, and the larger community. This stance hypothesizes a dynamic interrelationship between all parties. As such, neither the victim nor the community can disconnect from or disengage the offender. The offender is a full member of the community and an estranged partner of the victim. Alternative strategies must be found to rebuild the community and heal the estrangement.

Punitive models of justice are premised on the attitude of punitive segregation. Regrettably, this approach ensures that the offender will be more a threat to the community in the future. This Restorative Justice view of healing and restoration of community and offender is not a naively sympathetic view of the offense nor is it a utopia perspective on the prospect of reconciliation. In fact, the offender must do whatever the community demands to regain full membership. In the words of Johnstone (2002: 13):

“in the very process of being confronted personally with their victims and hearing first hand of the actual harm caused by their behavior—something which does not happen in the conventional criminal justice process—offenders will begin to grasp the true effect of their behavior. The psychological strategies they use to distance themselves from knowledge of these consequences will be penetrated.”

The fourth theme of Restorative Justice emphasizes the importance of community involvement in the resolution of conflicts between its members. Responsibility for crime cannot be delegated solely to the state and professionals. It is important that the community inform the offender of the collective consequences of
their actions and for the aggrieved to make them aware of the individual consequences. Every crime perpetrated on an individual has reverberations to the entire community. The current system of justice ostensibly acts as the agent of the community. Criminal petitions before the court are spoken in the name of the people, when, in reality, most communities have little to do with the remediation of individual criminal acts. Opponents of Restorative Justice argue that this part of the model is impractical because communities no longer exist in the way they did in earlier societies. While this is true in traditional, place-based communities, restorative programs that find ways to involve members in order to help foster a revitalized sense of community can help redefine community in broader terms.

The final core theme is the belief that the formal, legal justice system is not suitable for restorative goals. The current adversarial system, where one is the winner and the other the loser, can never be sufficiently reformed to allow room for the goals of Restorative Justice. A complete revamping of the system to allow for less formal, face-to-face negotiations where parties are free to determine the nature and extent of the harm done and creative ways to its resolution is required. Current constraints regarding strict legal definitions, legal precedents, coercive deterrence, and safety through segregation will not provide the scaffolding for a mediated model of victim, offender, and community response to harm.

This section provided a brief survey of the contours of a renewed strategy for addressing human harm in the context of the modern, western, criminal justice systems. The Restorative Justice Movement aids in the understanding of the relationship between victim, offender, and community before and after a harm event. Environmental Restoration, an environmental policy agenda that shares a similar vernacular, can be strengthened by a serious analysis of the key themes of Restorative Justice.

Core Elements of Environmental Restoration

Environmental Restoration and Restorative Justice share the concern that policy initiatives are designed to deal with the aftermath of great harm. Environmental Restoration, like Restorative Justice, seeks to equalize the harm quotient between the victim and the offender. In the case of Environmental Restoration the victim is not a person, but the earth—an ecosystem, a sentient physical being or place that has sustained great harm. Like Restorative Justice, the offender is a person or a collective of persons (a company, a corporation, a development group) which either maliciously or by legal sanction caused great harm to another, a living entity.

Environmental Restoration has been the cornerstone of most western models of Ecological Justice for nearly a half century (Baldwin et al., 1994; Gunn, 1991). It has been the basis of many environmental policy agendas in the industrialized world. It is premised on a mixed array of ecological and normative standards suggesting how humankind ought to live in relation to the natural world. Its overriding assumption is that when harm is caused to a living ecosystem it is the moral responsibility of humans to restore that harmed place to a state of relative dis-harm (Cowell, 1993; Jackson et al., 1995).
The Environmental Restoration Movement had its genesis in the early years of the 20th century in response to a half-century of rapid industrial development, population growth, and westward expansion. Policy makers and average citizens began to realize that natural resources were finite (Worster, 1994). These sobering realities meant that unless collective action was taken to slow resource extraction and rehabilitate degraded natural systems, America would gradually outstrip the carrying capacity of its land and resources. Conservation, preservation resource management, and land restoration were increasingly becoming practices of choice for dealing with the nation’s dwindling natural inheritance (Hays, 1972). President Theodore Roosevelt convened the first Governors Conference on natural resources in 1907 in order to bring together government and private industry to deal with the problem of diminishing resources. He wrote “it is evident the abundant natural resources on which the welfare of this nation rests are becoming depleted, and in not a few cases, are already exhausted” (cited in Jarrett, 1958: 51). This conference became the vanguard for new reform, spirit of stewardship, and reasoned action toward the natural world. It was the beginning of conservation and preservation sentiment in the Progressive Era (Hays, 1972).

The crux of early environmental policy was very practical. The issue was how America might more efficiently manage its natural resources. It became apparent to early reformers that unrestrained and unfettered laissez-faire economics promised unremitting environmental damage and economic ruin once the preponderance of natural resources were depleted. This wholesale exploitation of nature for profit, without sufficient regard for the larger social good for future generations, was at the heart of Roosevelt's effort. Roosevelt and many others believed as natural resources went, so went the nation. Resource management practices and assumptions such as wise-use, stewardship, preservation, conservation, and restoration were primarily concerned with the protection of natural resources for the practical and economic use of future generations. It was an ethic driven by utilitarian first principles of the highest good for the greatest number of people infused with emerging principles of scientific management and genetic improvement (Sessions, 1995). Few of these early reformers had illusions concerning the deeper meaning of nature, so unabashedly trumpeted and epitomized by their contemporary and mystical naturalist, John Muir (Fox, 1981). His writings were immensely popular and heralded the renewal of an older transcendentalist belief in the intrinsic value of nature and the importance of spiritual and numinous experiences with wilderness (Shi, 1985). But, in the minds of most early 20th century progressive environmental reformers, there were only two relevant, fundamental interests to be considered: “humans and natural resources” (Fox, 1981: 22).

In the century following these tenuous beginnings, resource management has dominated the conceptualization and practice of environmental policy. Resourceism became official government policy and has legitimated federal involvement in a full range of environmental issues from the husbanding and efficient use of non-renewable resources to the restoration of lands and ecosystem damaged by the necessity of resource extraction or economic development. Immense federal bureaucracies including the National Forest Service, Bureau of Land Management, National Park Service, US Army Corps of Engineers, and Environmental Protec-
tion Agency support this expanded federal presence. “In short, there has grown and developed in America a resource management elite consisting of academic theoreticians, politician-administrators, and technicians who attempt to impose cultural purpose on and thereby control nature” (Oelschlaeger, 1991: 284).

There are several core themes of Resource Management within the Environmental Restoration Movement that provide insight into their philosophical underpinnings. First, there is a fundamental belief that natural ecosystems have only instrumental or use value. That is, they exist for human purposes. Their continued existence and our efforts to conserve and restore them are only justified because of the relative economic and survival value that ecosystems have for the human species. The earth is essentially dead matter and it is primarily, if not exclusively, a collection of natural resources available for human exploitation and consumption (Sessions, 1995).

Secondly, homo-sapiens are only related to the natural world externally. That is, ontologically, humans are separate from nature. They are fundamentally different from the rest of the natural world. Like other species, humans survive through biological processes, but at the level of culture, intelligence, consciousness, language, and rationality are above the natural world (Besthorn, 2001, 2002; Capra, 1996). In the hierarchical ordering of this natural phenomena, humans rank at the pinnacle of the ontological ladder. They have no equal.

This anthropocentric bias of the human place in the natural order leads to the third theme of resourceism and restoration management. By virtue of humanities place in the ordering of beings and their advanced skills, solutions of thorny environmental problems are viewed as simple technicalities, fully solvable within a techno-scientific framework (Besthorn, 2000; Besthorn and Canda, 2002). Environmental solutions are human solutions that have been technically developed and refined to better address how natural resources may be utilized more efficiently. Problem solving of environmental concerns have been reduced to battles between competing specialists who development reasonable, rational, and professional technicalities of scientific expertise which are applied to the management or rehabilitation of the environment.

The above topics lead to the final theme that has particular relevance to Environmental Restoration. That is, humans can have a moral imperative to restore and repair the natural environment. Practically, this means that loggers of old-growth forests have an obligation to replant trees that have been cut. The fundamental principle of instrumental value and economic development is not questioned. Forests are still standing reserves for the use of the human economic enterprise. Old growth cutting is technically and expertly justified on the grounds that these forests can be adequately restored or replaced by technologically designed and managed tree plantations (Drengson and Inoue, 1995). Restoration forestry is seen as the only true forestry. In a similar way, real estate developers and coal conglomerates are obliged to restore damaged acreage in exchange for building and mining permits.

The language and practice of restorative environmentalism and resource management reveal a great deal about their underlying assumptions. The rhetoric of restoration, conservation, wise-use, and stewardship often means the expedient
economic development of resources by altering and exploiting nature to produce more and better products for human consumption. Framing human/nature issues as technical abstractions of management and restoration reveals the strong human-centered bias. Nature’s value still lies in its usefulness to humankind and change involves improvement, development, or rehabilitation of an imperfect natural world.

Environmental Restoration is not without its vocal critics. Robert Elliott (1997) published a sharp criticism of the restoration thesis in his original article and later book entitled *Faking Nature*. Elliott argued that even if a perfect copy of a degraded environment could be created it would still have less value than the original because it would, in fact, be a manufactured fake or forgery. In the same manner of a forged art work, no matter how refined its re-creative expertise, is still of much less value than the original. Eric Katz (1991, 1997) also has been sharply critical of the restoration movement on several grounds. First, it is inherently anthropocentric because it considers only the human priority in its perceived moral responsibility to restore natural environments. Second, restoration policy leads to an artifactual world—a world of things and devices that have no intrinsic value but carry in themselves only human intentions and purposes. Katz has also been critical of restorative environmental policy because it creates the false assumption that natural environment can, in fact, be restored. This human-centered arrogance, if broadly inculcated in environmental policy and the public sentiment, will lead to a human culture that has an even greater since of its omnipotence to exploit, manipulate, and manage nature. He writes clearly that restoration policy presents

“the message that humanity should repair the damage that human intervention has caused the natural environment. The message is an optimistic one, for it implies that we recognize the harm we have caused in the natural environment and that we possess the means and will to correct these harms. These policies also make us feel good; the prospect of restoration relieves the guilt we feel about the destruction of nature. The wounds we have inflicted on the natural world are not permanent; nature can be made “whole” again. Our natural resource base and foundation for survival can be saved by the appropriate policies of restoration, regeneration and redesign” (Katz, 1997: 94).

Katz makes the compelling argument that the real danger with the management of nature, including its restoration, is that it “results in the impositions of our anthropocentric purposes on areas and entities that exist outside human society” (Katz, 1997: 13). This will eventually lead to a fully artifactual world where the only phenomena will be human phenomena, the only natural vistas will be humanly constructed, and the only voice will be the human voice.

**Hearing the Voice of Nature**

Although the philosophical assumptions and practical merits of the Environmental Restoration Movement have been discussed, agreeing with their relevance is not the central concern or purpose for this article. My interests are much narrower.
Environmental Restoration has, out of utilitarian necessity, relative merit along a continuum of appropriate/inappropriate and is a component of environmental policy that will be around for many years to come. It will remain the backbone of national and international environmental policy well into the next century. More significantly, Restorative Justice has something important to say to Environmental Restoration that has been missing in the restoration discussion. One should not presume that infusing principles of Restorative Justice tempers all, or even some of the criticism that has been laid at the feet of the Environmental Restoration Movement. Rather, it may help clarify the necessary and sufficient conditions needed when a community or society contemplates how to redress great harm done to the natural world.

The earlier discussion suggested the importance of dialogue and the essential consideration of the victim’s right to speak and to be heard as a principle element of the Restorative Justice Movement. To often the retributive enterprise of the western justice system has ignored or muted the voice of the victim while most systemic energies have focused on protecting the rights of the accused—in essence insuring only the voice of harmer. I contend that the Environmental Restoration Movement must also find a way to dialogue and hear the voice of the victim. That is, Environmental Restoration must listen to the earth’s voice and the voice of the earth’s non-human inhabitants if it is to become a reasonably justified, and not a wholly anthropocentric, approach to knotty problems of environmental degradation. While this may sound like lunacy to the ears of some, there is in fact a strong case to be made that the earth and its inhabitants are en-voiced—they speak. The problem is not their speaking but rather our failure to hear. One may legitimately ask how the Environmental Restoration Movement might look, as a careful and systematic element of environmental policy, if it were to seek out and listen to the earth’s voice. Listening—in order to hear the earth’s pain, to acknowledge its concerns, to contemplate its desires, and to confess our failures. As we discover the vocative character of the resonant earth we will find ways to interrelate with it that will honor its wishes and will do it no harm. And, on those occasions when great harm does occur, humanity’s restorative efforts will seek out and consider the earth’s voice rather than purely human evocations regarding the best course of action.

Relying primarily on the work of contemporary phenomenologist Scott Friskics (2001) and David Abrams (1996), and phenomenological theologian Henry Bugbee (1958), I hope to show that the earth is not lifeless form, rather is, in the words of Friskics (2001: 393), a “speech actor.” The earth and its non-human inhabitants, by their sheer presence and magnitude of their bearing, bring envoicement to us. That is, they speak to us “univocally, unisonously, formulating a tautology of infinite significance” (Bugbee, 1958: 141).

For Friskics (2001: 395), the very essence of human existence is constituted in and defined by humanities constant involvement with a markedly complex system of relational events. To be human is to be related to concretized, materialized, and metaphysical reality. “There can be no thing-in-itself except as it is abstracted from the relational milieu of actual, concrete being with others.” Relational events are not synonymous with relationships, as we typically understand the term. Nor are
relational events simply cognitional associations between one human being and another. Relational events are physical, sensorial action experiences with living beings, human and non-human alike. Indeed, relational events preclude anything that might resemble a kind of effortless, individualized meeting of two separate ego-bound selves; as is commonly understood within dominant western ontology (Besthorn, 2002). There is no laying hold of the self in isolation from the matrix of our relational bonds.

Of critical importance for the current discussion is the perspective that relational events assume address and response. That is, when relationships are concrete, sensual experiences with others, there is no possibility to relate on a purely ephemeral level. Relationships are not immediately in the mind but rather are in the senses, in the body, in the felt connection between living phenomena. In this sense, self-ness is much like the Buddhist notion of self as matter sensation in addition to perception and mental formation (Friskics, 2001). Networks of relational events take place in the context of self-speaking fellow creatures, both sentient and non-sentient. Friskics supports this view by suggesting that hearing the world and speaking to the world was the foundation ontology of early Judeo-Christian culture. In truth, the ancient Hebrew term davar, originally used to refer to word, over time came to mean act, event, or the thing that voices. Clearly, Friskics finds linguistic recognition of the vocative character of reality, the pervasiveness of the voice of things—a humbling realization that things are “first and foremost, en-voiced speakers” (Friskics, 2001: 394). For the ancient Semitic tribes, their languages of the mountains and hills as breaking forth into song were not mere figures of speech. For them, the sense of being is annunciation, speaking, singing, chirping, creaking, warbling, whistling, whooshing, and clapping. All of these are sounds, if one intently listens, can be heard in the natural world.

Phenomenologists are unambiguous in there assertion that to live, to be, and to be present in the moment means to be addressed. What is around us and what occurs to us addresses us. The beings and things we meet in the natural world, if they are not, in the words of Katz (1997), mere human artifacts, have something to say to us by their presence with our presence. When we confront a river, a toad, or a tree we have encountered a relational event, we are being spoken to and in the speaking, perhaps most importantly, a claim is being made on us. “The basic mode of our participation in being with other beings is address and response … appel et reponse” (Bugbee, 1974, cited in Friskics, 2001: 395).

For Abrams (1996), the confirmation of Friskics claims may be found in carefully observing the history and current practices of non-literate cultures. He especially appeals to the Koyukon people of northeastern Alaska and the mythological language of aboriginal Australia. Abrams (1996: 74) notes that early non-literate (unwritten) or spoken languages, still used predominantly by these ancient peoples, are profoundly carnal phenomena “rooted in our sensorial experience of each other and of the world.” Language was not learned mentally but bodily, and the instrument of learning was the vocative world. Touch and voice, seeing and hearing, tasting and smelling are all relational events concurrent with our embodiment in the world that created the context for language. To touch the course bark of a tree is, at the same time, to experience one’s own tactility “to feel touched by the
tree” (Abrams, 1996: 68). We are a part of this relational event. In fact, it could not be otherwise. It is then no surprise that we still have vestiges of this early iconic language when describing such things as a babbling brook, the rustling wind, and the pattering rain. Each of these phonetic descriptors refers back to sensuous experience with and sounds of these things—brook, wind, and rain. Our words are, indeed, the sounds these things make. To hear a brook is to hear babbling. To hear the wind is to hear rustling. If one has ever listened intently to a soft spring rain, gently pelting a roof or window sill, one begins to experience the voice with which the rain is speaking.

Abrams argues that language is not, in its essence, creative but reflective. It reflects its embodiment in the world. One could say language does not create the world; rather, the world creates language. He appeals to the work of Maurice Merleau-Ponty, the French phenomenologist, to suggest that language can never be severed from direct experience of materiality. And, if we language because of our sensing bodies then our sensing bodies are languaged from the depths of a speaking world. The impact of this is insightful, for it suggests that language and language relationships are not just the unique property of the human species. Abrams (1996: 80) describes this idea eloquently:

“Yet to affirm that linguistic meaning is primarily expressive, gestural, and poetic, and that conventional and denotative meanings are inherently secondary and derivative, is to renounce the claim that language is an exclusively human property. If language is always, in its depths, physically and sensorially resonant, then it can never be definitively separated from the evident expressiveness of birdsong or the evocative howl of a wolf late at night. The chorus of frogs gurgling in unison at the edge of a pond, the snarl of a wildcat as it springs upon its prey, or the distant honking of Canadian geese veering south for the winter, all reverberate with affective, gestural conversations and soliloquies, moving us at times to tears, or to anger, or to intellectual insights we could never have anticipated. Language as bodily phenomenon accrues to all expressive bodies, not just to the human. Our own speaking, then, does not set us outside of the animate landscape but—whether or not we are aware of it—inscribes us more fully in its chattering, whispering, soundful depths.”

Abram and Friskics affirm that the modern, technological society has lost much of its ability to listen to the natural world. There are many reasons for this, not the least of which is that we live in an incredibly noisy and invasive world. Televisions, radios, stereos, video games, computers, telephones, and all manner of industrial noise usurp the silence at every turn. The world of artifacts—of humanly created things—is a cacophony of noise. It all but drowns out the voices of creation, which are rarely intrusive and only occasionally deafening. When we hear other voices, they are our own voices—human voices and human constructions of what is and ought to be. The contact we might still have with nature is based on our technological interpretation of nature’s function and structure, and rests largely on our humanly conferred values and uses. In this world, nature is no longer autonomous and eloquent. It stands mute, “a silent storehouse full of inert stuff—
an inventory of lifeless stock” (Friskics, 2001: 401). We are involved, at best, in an interspecies monologue with ourselves.

Abram, Friskics and Bugbee also share remarkable similarities in the way they sketch a path to greater engagement and dialogical encounters with our fellow citizens of the natural world. Friskics, for example, calls for us to find our personal vocation—the individual actions we take in our lives with creatures that call us and request our participation in a greater dialogue. Vocative nature means a nature alive with a calling—of being to being. This calling is intensely personal, spiritual, and intuitive and finds its deepest expression in the manner in which we seek and find the native anthem that is nature’s voice calling back to us.

David Abram calls the process of engagement a reinhabitation. It is a kind of personal remembering of the particular places and ecological regions that humans inhabit. It is finding ways to reinhabit our place in the world through an intimate reciprocity to the senses “as we touch the bark of a tree, we feel the tree touching us; as we lend our ears to the local sounds and ally our nose to the sensorial scents, the terrain gradually tunes us in, in turn” (Abrams, 1996: 268). For Bugbee (1958), it is only at the scale of our direct interactions with the land around us that we can protect and restore the animate and envoiced earth. It starts locally and personally. Top-down and large centralized solutions will never, in themselves, bring about the kind immediate response to the needs of a living, suffering, and largely unheard world.

**Restorative Environmental Policy: Listening First**

The Restorative Justice Movement challenges the environmental policy community to consider the critical need of incorporating a vital Restorative Justice tenet into any comprehensive environmental policy initiative. It clarifies that Environmental Restoration, as the Restorative Justice Movement has long known, must incorporate sensitive consideration and dedicated attention to the words of the victim into viable and comprehensive environmental policies. Restorative Environmental Policy, from a reformist and anthropocentric concern for control, problem solving, and expertise has failed to integrate a deeper concern to hear the voice of nature into its efforts. If our earlier conclusions are correct—that there exist very real possibilities of humans having greater dialogical encounters with their fellow earth citizens, then Restorative Environmentalism must not speak for the needs of the natural world through purely human monologues of re-creation. The sobering reality is that humanity knows very little about the complex and elaborate structures of nature or how these interact in profoundly intricate ways to form living ecosystems. The assumption that human ingenuity is capable of a complete technological fix of degraded environments demonstrates the arrogance with which modern culture assesses the natural world. Human solutions to make the natural whole again are just that, human solutions.

Regrettably, there seems to be a growing number of serious ecologists, environmental philosophers, and policy advocates who dutifully believe that human inventiveness can fully restore degraded ecosystems, even though the destructive relationship between the technological worldview and environmental
crisis has been amply demonstrated. The core concern is not whether environmental restoration is an important, practical, and short-term response to environmental degradation. Few people would agree with leaving exploited or injured natural environments in their degraded state. This is not the overriding issue.

Rather, the core concern is that arguments for reclamation based on human benefit and interests alone fail to provide adequate moral and ethical justification for the restoration of ecosystems. The moral dilemma manifests itself most completely when restoration policy is considered an appropriate environmental response on purely human grounds. In these instances, the real enticement is that the restoration thesis becomes a powerful justification for degrading ecosystems in the first place because presumably, humans can restore them to their original, untrammeled perfection.

When the first requirement of restoration becomes the priority of listening sincerely and intently to the voice of the earth, in all the depth of consideration that may require, then restoration will be more ethically grounded and thorough, and the decision to degrade environments will become more cautiously considered, except in the case of meeting vital human needs (Naess, 1989).

Hearing the voice of the earth in questions of degradation and restoration establishes a rival tradition of environmental policy. In this vocative perspective, all parts of the world have the ability to speak to us and to establish a relationship with us. This view implies a radical equality among the beings and phenomena of nature, and a kind of universal kinship of life in which humans do not dominate, exploit, or destroy (Katz, 1997). Nature ceases to become simply the material of human happiness; rather, it is intrinsically valuable in itself—a manifestation of the effable spirit presence in all.

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The Moral Discourse of Healing: Victims and Offenders for Restorative Justice

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Abstract
The study below deals with the experiences of healing and reconciliation of inmates, victims, and citizens based on five seminars on restorative justice at the Washington State Reformatory, a close custody facility for men in Washington. The research centers on the formation of a moral community that links victims and offenders, that is, on the way victims and their relatives articulate their suffering and on the way offenders could be asked to take responsibility for their crimes and address the harms they had caused. The goal of the seminars was to discuss a new way of achieving justice through the restoration of harms caused, rather than the achievement of healing itself. The initial recognition of one another as persons who are capable of being harmed or of suffering was achieved by letting each side tell their story. These stories formed the core and the basis of healing for victims, the offenders, and community representatives alike. This highlights the important role restorative justice approach could play within the correctional environment.

Keywords: Restorative justice, correctional facilities, storytelling, moral community, healing and reconciliation, taking responsibility.

Restorative justice has been proposed as an innovative method of delivering justice. It focuses on harm done to people and communities, obligations that result, and the promotion of significant roles in the justice system for victims, offenders, and community members (Zehr, 2002, 1990). Generally, models of restorative practice involve an encounter between key stakeholders and consider how the offender can redress the harms caused through a range of actions such as restitution, community service and addressing victim concerns (Zehr, 2002; Umbreit, 1997).

Recent works on restorative justice have focused on the nexus between community and restorative justice practices, finding that the role of community in restorative justice, while critical from a theoretical perspective, has been the least defined. They have noted the dilemmas inherent in blending these approaches while ensuring public safety (Pranis, 1997; Bazemore and Schiff, 2001; Smith, 2001; Saranoff, 2001). Initially, most restorative justice programs focused on less serious crimes in community based settings (Umbreit et al., 2001; Galaway and...
Hudson, 1996). However, in recent years, efforts have been made to explore if and how restorative models can be applied to work with the stakeholders in violent crimes and correctional settings (Helfgott et al., 2002; Braswell et al., 2001; Lund, 1997; Wachtel, 1997).

This report details the experiences of healing and reconciliation of inmates, victims, and citizens who participated in five seminars on restorative justice at the Washington State Reformatory, a close custody facility for men in Monroe, Washington. The seminars, supported by grants from the Center on Crime, Communities and Culture of the Open Society Institute, ran for between 10 and 12 weeks over a three-year period, from 1997 to 2000. Research questions focused on the degree to which participation led to attitude changes: (1) Did inmates begin to see the harms they had caused as a result of their crimes and begin to understand and take responsibility for their actions? (2) Were victims able to come to see the inmates as individuals and entertain different notions of justice? (3) Did victims benefit from this experience in working through their own experiences? (4) Did community members gain a greater appreciation of the workings of the criminal justice system? In sum, would these groups be able to productively discuss new ways of achieving justice using a restorative justice model, one that emphasizes the repairing of harms for victims and the taking of responsibility for inmates?

One way to frame the analysis of the seminar process is to view it through the lens of moral discourse, the formation of a moral community that links victims and inmates. This leads to a better understanding of how the participants process moral events and healing (Narvaez, 1999; Norman, 2000; Lifschitz and Oosthuizen, 2001).

As victims were able to articulate their suffering, the harms they had been caused, and demand of inmates that they be heard and taken seriously, so inmates were asked to take responsibilities for their crimes and address the harms they had caused. In so doing, both groups began to examine and model what it meant to be a responsible actor in the context of the seminar. This openness to the other, demanded by victims and inmates in the presence of community members, led to the creation of relationships across the groups that, in turn, helped to promote both understanding and healing. In this sense, the seminars represent a process of restoring an understanding among people that had been, in many cases, violently torn asunder. In short, they exemplify a community-building exercise held within the framework of a prison setting that, by its very nature, limited the offenders’ ability to engage in traditional community-based restorative actions. Jürgen Habermas (1990: 67) captures the importance of these connections in his discussion of moral argumentation:

"By entering into a process of moral argumentation, the participants initiated a communicative action in a reflexive attitude with the aim of restoring a consensus that has been disrupted. Moral argumentation thus serves to settle conflicts of action by consensual means. Conflicts in the domain of norm-guided interactions can be traced directly to some disruption of a normative consensus. Repairing a disrupted consensus can mean one of two things: restoring intersubjective recognition of a validity claim after it has become controversial or assuring inter-
subjective recognition for a new validity claim that is a substitute for the old one.”

This paper reports results of qualitative data analysis of focus groups and post-seminar individual interviews to understand the evolution of the seminar as a moral community. Outcomes of quantitative and participation observation data in similar settings have been reported elsewhere (Helfgott et al., 2000; Lovell et al., 2002b).

Methods
Seminar Structure
The basic CVORJ seminar format consists of a participant orientation and ten to twelve weekly seminar sessions lasting approximately 2 1/2 hours. These are followed by a focus group meeting and prison tour. Session content includes an overview of restorative justice, storytelling/encounter, and discussion of personal stories in relation to central features of restorative justice. Components include offender accountability, needs and rights of victims, healing of victims and offenders, citizen responsibility, citizen fear of crime, and creative strategies for repairing harm, achieving justice, and offering hope to all parties affected by crime (Helfgott et al., 1999; Lovell et al., 2002a). While the investigators provided a text, “Restoring Justice” (Van Ness and Strong, 1997), and other educational materials, the heart of the seminar centered on participants telling their own story and listening to other’s stories. The narrative of their own life experiences became the bridge across which the participants reached out and met one another.

Participants
All participants were volunteers. Fliers were distributed to all inmates, asking for volunteers for these seminars. They were closely screened by means of case file reviews, selection questionnaires, and individual interviews. A willingness to take responsibility for crimes and discuss the details of their crimes was criteria for inclusion. Victims were canvassed through victim’s rights organizations, newspaper advertisements, and fliers. In all cases, they self-identified and were prepared to discuss the crimes perpetrated against them or family members. Community members/citizens were also volunteers. They did not self-identify as victims, and were interested in issues related to crime and justice.

A total of 97 people took part in the five CVORJ seminars including 43 offenders, 29 victims, and 25 citizens. Offenders’ crimes ranged from drug and/or firearm offenses to multiple murders. Sentences ranged from 4 years to multiple life sentences and/or life without parole. Offenders ranged in age from 22-59. 29 of the offenders were white, 10 were African American, 2 were Hispanic American, and 2 were Native American. 25 females and 4 males, ranging in age from 22-78, participated as victims. They were either family members of homicide victims or primary victims of crimes ranging from vandalism/theft to aggravated assault/gang rape. 20 were white, 4 were African American, 1 was Asian American, 2 were Hispanic American, and 2 were Native American. The citizen participants included
17 females and 8 males ranging in age from 19-71. A number of the citizens were employed in social service and criminal justice agencies. 21 were white, 2 were Hispanic American, 1 was East Asian American, and 1 was Asian American.

Results

Healing Within the Moral Community

“I saw the healing process for the victims merely by just telling their stories. I think about their stories a lot and then being able to express them to other people and put words to their feelings and to what had happened and how it has affected their life (a community member).”

Many of the participants reported experiences of healing as a result of telling their stories and hearing other stories. The spontaneous reports of healing, on the part of the participants, were an unexpected outcome. Victims were in the forefront of reporting feeling better and experiencing healing. Offenders reported feeling remorse, sometimes for the first time. Community members indicated how moved they had been by the stories. In short, healing, not an initial focus of the investigators, became one of the leitmotifs. In the construction of narratives of crime, the victims and offenders retell some of the most traumatic moments of their lives. To a certain extent, this also meant a re-experiencing of these moments. This process became critical to opening a moral dialogue, a discussion of harms and taking responsibility for them, and an opening for healing.

A young victim of domestic violence spoke of her seminar experience in life-changing terms. “I have grown so much and one of the inmates said to me ‘you know your growth has just been amazing in the past ten weeks, you are a different person than when I just walked in’ (and I answered) … you know that’s true.” For her, the constitution of the group itself was critical to her healing experience:

“If I could be safe telling my story in front of a group of men, particularly men who were in prison and then I could probably tell my story anywhere and if I’m brave enough to do that I’m probably brave enough to handle whatever this monster (her abuser) has to dish out to me … I have been told by my friends that even my body language is different now … I walk taller and that sort of thing.”

Other stories poured out of many individuals, not planning to discuss certain aspects of their lives prior to telling their story. Others opened up wounds they had long thought to be closed. Some of the victims were articulate in this regard. A mother who had lost her daughter, 40 years previously, related that she still had in her possession never-read news clippings about the crime. During the seminar she began to read the clippings and reflect on her feelings for the first time in nearly 40 years:

“I have had a lot of murders in my life. I remember looking down. I remember thinking … I don’t want to know this … I think in some way being involved in this
seminar helped me on this road to healing ... I have been very angry ... I felt so relieved and restored and I didn’t feel so alone.”

“Significant to her was also that one of the inmates had painted a mural and dedicated it to the memory of her daughter. This woman made contact in a double sense, contact with emotions and memories of the crime, and contact with inmates who had committed murder. In her case, contact led to increasing mastery over the event. “I didn’t cry and usually I cried when I told my story. I didn’t even tear up and that’s a real step in the right direction.”

“For many victims, the experience of violent crime was equivalent to having their world ripped apart. Victim participants were in the process of reconstructing their world. What and who can be trusted? How do I make my way in this new landscape? Having been injured by another had redefined who and what is safe. The hurts, pain, fear, dismay, frustration, consternation, and anger experienced by these victims were without a concrete object. Their suffering could not be directly discussed with the actual actor who had caused it. Many had few opportunities to confront their perpetrators over the period of the arraignment, trial and sentencing. Contact was limited to the courtroom where the parties were not allowed any physical or verbal connection. This left victims with numerous questions and doubts. Why did he do it? Did I do anything to cause this? Why did this happen to me? Many of the victims were also upset at the way they had been shunted aside by the criminal justice system.”

Victims found the seminars a safe place to process the impacts of crimes. One of the paths to re-connecting with the world, to constructing a new world, is through a relationship with the perpetrator. Given the vagaries of the criminal justice system, coupled with the dangers of re-victimization, contact with the perpetrator is either impossible or inadvisable. However, through a connection or relation to the source of one’s anger, fear, and frustration, at least in surrogate form, healing may be aided. It is this re-establishment of relationship, which can lead to a new relationship with the world and unlock the chains of emotional trauma.

“For some victims, the experience of confronting surrogate offenders, telling their stories, and answering the offenders’ and others’ questions was a healing experience. Entering into relationship with the (surrogate) offender began or continued to unlock some of the emotions, partially freeing the victim from the burden of a story which had an unanticipated beginning and which has not yet come to an end. It is not accidental that many of the victims experienced great feelings of relief, of a burden being lifted, as a result of telling their stories. A middle-aged man, whose father had been murdered some years before, expressed it this way: ‘I really had never told my story before and the next morning I felt at inner peace with myself.’ In the post–interview he noted, ‘I felt something was gone, something was healed inside of me.’ Another victim discussed about how we live isolated in our own little worlds and that it is necessary to get out beyond them: ‘to break through the isolation ... we are all survivors, we are all in some way
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victims ... we all have to heal.’ She saw this as a process that you couldn’t do by yourself. ‘It required connecting with people.’"

Parental survivors of a child homicide told the most powerful stories. What is striking about these narratives and the consequent readjustments in the group is that they often open up the basis for a close relationship between the victim and an inmate who has committed a similar murder. In other words, this type of story formed the basis for the closest bonds that developed in these seminars. Both parties found these relationships to be important, particularly the victims. In discussing how she felt after having told her story, a woman whose son had been murdered related how the reactions by offenders to her story helped her heal:

“then some of the inmates had time to think about my story, they’d come up to me, maybe the next week. Or the week after during the breaks and ask if it was ok if we talked about parts of my story and told me part of my story moved them and made them feel emotions they hadn’t felt and that was the healing part.”

Their expressions of sympathy for her had a clear impact on her and stimulated her own feelings of empathy.

“I gained a real understanding of them and why they had done the things they had done and I saw them as human beings that made really unfortunate choices. I felt empathy for them and they felt empathy for me. And that’s what healing is all about for me.”

When the young offender who had committed a crime similar to the one that resulted in the death of her son approached to speak with her about it, she found this a further occasion to empathize. “I could just so much relate to him and how he ended up where he did and I could think about the man who killed my son and think about the circumstances he was in.”

Unexpectedly, these relationships came to embody a potential model for what repairing harms can mean with surrogates, in a restorative justice framework. While not able to confront their offender, the victim was able to interact with an offender who had committed a similar crime. “It just felt so good that someone who had committed a similar crime against a person could relate to my story and could say that … for him to come up and tell me, I mean I could just so much relate to him.” Reflections on this relationship by other victims demonstrated its power:

“(they told their stories) right at the beginning and there wasn’t much that could top that. Her responses to his story … her saying perhaps being a mom of a victim and you being an offender that we could help each other … you could see transformation starting right away.”

“(I was) surprised by how much … bonded considering his crime and how similar it was to how her son died. He was fairly young when he committed his crime,
similar in age to her son. Seemed kind of strange that they got close, seemed to counsel each other.”

“For some, the telling of their story does not always bring immediate healing. For other victims, telling their story meant re-establishing contact with events in their lives that they did not want to re-visit. One victim of abuse, who had a difficult time preparing to tell her story, related her experience. ‘I was worried about the judgment, probably everyone there, victims and offenders, were worried about how people would judge them and I was worried about that.’ Another victim of child abuse indicated, strongly, that she did not want to tell her story again saying, ‘never do it (tell the story) again. I didn’t like it. I didn’t like people looking at me: didn’t like people talking about it. I didn’t like talking about it. I didn’t like questions. I didn’t like it.’ Although she recognizes the events do not bother her as much as before this encounter, it was a door that was opened for this occasion alone, but is now closed. These types of responses were in the minority. What separated those who were ready and benefited from those who were not ready, remains unclear. It was not simply a matter of how recently the event(s) had occurred, although that appeared to be a factor. Nor was it the nature of the event, although young participants that had suffered abuse as children appeared to have more discomfort.”

Some victims, rather than focusing on their own healing, thought the purpose of the group was directed at getting the inmates to take responsibility, to genuinely engage in the moral community. A victim of rape articulated some of these concerns in a situation where she felt the inmates had not taken sufficient responsibility for their actions:

“I kind of felt like the whole idea behind this group, wasn’t necessarily to heal the victims but more to heal the inmates … so they could be productive, see the error of their ways, see what harms they had done … my hope in telling my story … victims, community people don’t need to hear … telling it to the inmates so they could understand … but also tell inmates when you hurt somebody, murder somebody, there is something that is left behind, I am what’s left behind.”

The road to healing for offenders began differently than for victims. If healing is a re-connection with the world, then inmates have to first establish that they merit others’ acceptance. While superficial connections are made relatively quickly, to further establish a relationship and to prove that they are worthy individuals, the inmates must demonstrate that they are willing to take responsibility for what they have done. Demonstrating an awareness of harms they have caused and showing remorse opens up the possibility of relationship with victims. Offenders frequently asked appropriate questions about the psychological and interpersonal consequences of victimization, the areas that seemed least understood by them. Questions included: “Would you feel the same after 20 years?” “Are you fearing he would attack you?” “How did the crime affect your relationship with men, with your children?”
Critical to inmates being accepted by the victims was their ability to take responsibility, show remorse, and demonstrate some empathy in a convincing fashion. While victims generally knew what it meant to be a member of a moral community, to acknowledge the personhood of others, this often was not the case with inmates. Inmates often seemed to have little sense of the harms they had caused or to understand the pain others experienced. Offenders had agreed to talk about their offence(s), admit their guilt and discuss the harms they caused before they were allowed to participate in the seminars. It was their ability to accomplish this and do it in convincing fashion that helped shape their own experience and others’ in the group.

The Norms of Moral Discourse: Taking Responsibility, Empathy, and Sincerity

Offenders were supposed to focus on acknowledging others’ pain and the harms they had caused. Healing in this context meant recognition of victims as harmed persons who have suffered pain and who need to be objects of offenders’ concern. Taking responsibility and expressions of remorse were taken as signs that individual offenders were in fact seeing victims and community members as persons. These expectations were explicit in that offenders were required to be willing to describe their crimes accurately. However, the emotional responsiveness and manner in which the inmate’s crime was to be described constituted implicit behavioral demands on them by victims and citizens.

Inmates’ efforts to conform to these norms, as they understood them, did not follow neat trajectories. They faced skepticism on the part of many of the victims and some of the community members. They had to do a convincing job of expressing empathy, demonstrating remorse and taking responsibility before their statements were acknowledged as genuine. While some inmates were quick to take responsibility for the harm they caused, citizens and victims saw this as an act. Others said they understood, while failing to give a convincing performance. Those inmates who were able to act authentically began to shed the stigma of their positions and find common ground with victims and community members.

Acknowledgement by others of taking responsibility was predicated on offenders’ awareness of the harms they had caused. Inmates were often able to report on the pain and suffering their own families experienced, a harm largely ignored by the current system. Inmates told about the stress of family members being searched for prison visits, family breakups, and the loss of contact with children. It was more difficult to discuss the harms they caused victims, victims’ families, and the community. The act of taking responsibility for the crime, itself, was frequently a challenge. Inmates would go into great detail about their upbringing—the hardships, the abuse, and the absence of role models. They would pass quickly over the details of their crime or fail to mention them, jumping, instead, to the trial or their incarceration. Other members of the group often called inmates to task for this. A refusal to take responsibility was sometimes taken by victims as a denial of their own personhood, a re-experiencing of the denial of that by their perpetrator.
Occasionally, a story would bring relational interaction to a halt. The most telling example occurred in Seminar 1 when an inmate convicted of robbery and murder, described in a calm, emotionless, serious manner, a two year growth process he had undergone to reach the point of turning his partner and himself in for an unsolved murder.

“I could not live with myself any longer. I stopped smoking, drugs, (and) started studying scriptures. Asking myself what made me do what I did, I decided to expose the whole thing. Not a healthy thing to do … (I) wrote the prosecutor’s office with no intention of making deals.”

What made this case exceptional was the action taken by this inmate to prove his seriousness of intent by adhering to such high, self-imposed moral standards. However, inmates, given the restrictions of incarceration, rarely had the opportunity to demonstrate their remorse or take responsibility through such dramatic action. The payment of restitution was often discussed but frequently downplayed by inmates. They often saw this as another instance where the state corrections agency was harming them, while lacking concern for their victim’s well being. Taking responsibility and the attendant repair of harms was, in fact, difficult to act on in anything more than name only. Examples offered to the group, such as participation in victim awareness programs or prison seminars, usually were not taken as convincing. Moreover, the general litany among inmates was that there was nothing they could do, given the restrictions imposed on them. This sometimes led to heated conversations and simple perplexity.

In the context of these seminars, connections and relationships were established through telling stories. After the victim told her/his story, it was often the inmates who were first to respond. For the most part, their response was with empathetic expressions of concern. Such expressions of empathy by inmates were taken as signs of goodwill and fundamental humanness. These were necessary but not sufficient conditions for inmates to be accepted by outside participants. Responding to a victim’s expressed desire to be listened to in the third seminar, one inmate said,

“I am sorry, even more sorry it’s not closed, I hope that listening to you will help. I hope that just talking, being supportive can continue, that it helps. It may sound crazy coming from an offender, maybe talking to us you can let go.”

The victim was able to reply with feeling, “Yes, it helps. Thanks.” Inmates also reported being able to understand the victims’ plight as a result of having heard their stories. One inmate commented that the outsiders’ stories really helped him, noting, “I was really able to understand what you went through.” Other inmates, while responding with supportive comments, went on to reflect on their own feelings and to contemplate their own roles in causing harms. One inmate noted, “The biggest things for those of us in here is the victims’ stories, you see the person and the suffering you have caused, you see things differently.”
In the course of the storytelling, many offenders talked about how they had been full of anger or rage at the time of their crimes or had been headed down a negative path with little empathy for others. Not only did they not care about themselves but in the words of one offender, “I never thought about the victims (or my crimes)” as he spoke of the estrangement between victims and offenders today. An inmate in the second seminar reflected: “you have to learn to deal with what you have done, build something on that, care about people/things, care about other people.”

Victims and community members facilitated this process by sharing events in their lives where they had broken laws and/or committed foolish, self-destructive acts. Connection with victim’s stories allowed inmates to relate victimization events in their own lives, such as a family member raped or murdered. Inmates were able to bond with a shared humanity that offered the promise of forgiveness and redemption. A very interesting discussion ensued in the third seminar when inmates asked victims how they kept from committing crimes to deal with their pain. Victims took on an explicit role as moral teachers. They explained that it was not that they had not considered revenge but had decided against because of an awareness of consequences to themselves such as going to jail, awareness that another wrong would not bring back the loved one, and adherence to religious and moral values.

Thus, empathy with victims served as an opening for inmates to feel and successfully communicate remorse. The narratives and the interaction served as a schooling in emotional labor by putting on and incorporating a successful performance of emotional expression. Learning and mastering the pragmatics of emotional display was critical if the outside participants were to believe the inmates and their stories. Sincerity as a behavioral norm presented thorny challenges to victims. Often victims and community members could not articulate, in concrete terms, what was required for an inmate to be believed. Rather, they knew sincerity when they saw it. Both verbal and non-verbal modes of communication were important. Certainly an inmate needed to say the right words. However, that alone was insufficient. The importance of showing emotion was demonstrated when an inmate in Seminar 1 cried as he described his crime saying, “I know I wasn’t totally innocent. I took part in someone’s death, you don’t know how often I have wished I could go back.” This inmate was perceived as particularly believable by a victim who commented, “I know it was hard for him to get it out. I am concerned with how you guys responded to him, it was a struggle for him to get it out.”

An inmate in Seminar 2 demonstrated the successful merging of verbal and non-verbal modes of communication. He became tearful while describing the murder he committed. He related it to his childhood attempt to take vengeance on a very abusive stepparent. He said

“At that time (of the homicide) I really did not believe I could do it, at thirteen I held a gun to my stepfather, and I could not do it, the same thing happened with a guy in prison who deserved it and I could not do it. Now I know I have the ability to go to the extreme.”
However, the interpretation of such communication cues was both complex and individually based. Another inmate in this seminar appeared cold and stiff as he recounted his carefully planned murder as a part of his role as a gang enforcer. While he described himself as ashamed and said that in court he told the family of his victim how sorry he was, his lack of affect was rather chilling to the investigators, compromising his believability. However many of the outside participants were genuinely convinced by his presentation. Inmates did not face unanimity on the part of the outside participants as to what constituted a convincing performance, nor did the outside participants respond in uniform fashion. Similarly, there were instances where the outside participants believed an inmate, but his fellow inmates were skeptical.

It should be noted that the same level of emotional facility and coherence of presentation was not demanded of victims. A victim in the third seminar gave a rambling presentation, telling of being accosted by a stranger after she had stopped to speak with him at 2 a.m. on a deserted city street. She did not even hint that she had used poor judgment in striking up a conversation with a total stranger at 2 a.m. under these circumstances. An inmate did begin to broach this issue, albeit clumsily, and the other participants quickly quieted him. It was very difficult for the group to confront any of the victims about their stories. To do so, risked being a target of accusations of blaming the victim or contributing to re-victimization. Paradoxically, the prison environment discouraged, and often punished, the very sort of sensitivities demanded by the victims and community members in the seminar.

Inmates as “Victims,” or Sometimes the Process Does Not Quite Work

While the first four seminars were fairly uniform in their emphasis on the creation of a dialogue that entailed a mutual recognition of the harms done to victims and the responsibility of inmates, the fifth seminar became a showcase for the inmate as “victim.” Meanwhile, victims qua victims tended toward invisibility. Although some victims experienced healing, it was not a central part of their experience in this particular seminar, nor was taking responsibility for their crimes central to the inmate’s stories. It remains unclear the extent to which there was in fact an ongoing moral dialogue among participants in this setting or whether it was more the case that participants were simply having a hard time recognizing the validity of the other’s claims.

Participants’ post-seminar focus group discussion turned quickly to a central theme: victims’ and community members’ perception that this seminar was “offender-focused.” Some offenders had similar questions. The touchstone for this was a perceived failure of the inmates to take responsibility for their crimes and hence to take seriously the harms they had caused. Indeed, the inmates themselves raised issues of taking responsibility. One inmate, incarcerated for robbery, pointed out, “the outside people felt like it was a ‘poor me’ type of session for inmates. A lot of people on our part did not own up to the responsibility of what our own life was like and our choices.” Another inmate who had committed home invasion robberies supported this contention: “I felt that way, especially being in two groups
(seminars). We didn’t focus enough on victims. We focused on the hardships we are going through. “A burglary victim took a more neutral stance, at least in the focus group: “There were times when I felt it was ‘poor me’ but (I) didn’t find it offensive or inappropriate because it didn’t go on and on.”

The make-up of this particular group of offenders contributed to this perception. As one inmate noted:

“I was the third one of the offenders to tell their story, and I was the first one to admit guilt. I was guilty of it too. I kind of whined about being struck out (three strikes law). I felt the victims did not get to say this is bad.”

While many the offenders in this fifth seminar admitted to committing crimes, a few denied they were guilty of the crimes for which they were currently serving time. Other offenders stated they had merely been “in the wrong place at the wrong time” and had not actually committed the crime. Still other offenders, who admitted guilt, had been sentenced to life without parole under the provisions of Washington State’s Three Strikes Law. These inmates were serving life for relatively minor felonies. In all of these cases the emotional locus of their narratives was fundamentally different from the narratives of inmates who had committed a crime and simply confessed to the group. In other words, for a variety of reasons, many of these inmates were less willing than those in previous seminars to take outright responsibility for either their crimes and/or their sentences. Indeed, many perceived themselves to be victims of the criminal justice system.

A victim of domestic abuse pointed out the dilemma, saying “---’s (Three Strikes conviction for a series of minor offenses) story is a prime example, how do you validate his pain but also follow the structure of the group?” One of the citizens, who was quite vocal in her support and concern for inmates, saw the problem, noting, “I saw a pattern ‘I did this but’ and it bothered me, and here I am ‘pro-offender girl.’” Indeed, given that restorative justice demands that offenders take responsibility for their crimes, what is the proper stance in a situation where the inmate may also be a victim? The group ended without a clear resolution to this problem. Victims had been harmed, but inmates had also suffered injustices. How were these two interests to be reconciled?

The seminar revealed why some offenders took on the role of victim. However, there were other contributing factors. Some participants felt the setting played a role, specifically, that of outsiders on the offenders’ turf.

“I think it is a bit turf oriented. My mind just focused in on the offenders because of where we were, having the emphasis be put on their situation from the git go .. and for me that just framed that that would be the focus and the supporting roles would be that of victim and citizens in regards to the offender’s situation.”

A woman who also works with ex-offenders saw the same phenomenon, saying “Well I feel like where the environment is in their territory; offenders feel more comfortable, others have never been in prison and feel uncomfortable, hesitate to express their feelings. I just feel it was unbalanced.” Thus, from the
perspective of these participants, the differential power relations in this situation, defined here as a matter of turf and not the power of the State, prevented participants from breaking down boundaries. Interestingly, this had not arisen as an issue to the same extent in prior seminars.

Others thought the offender focus was a matter of group dynamics. A victim of burglary who was not as critical of offenders in the focus group in the post-interviews, concentrated on the dynamics of the seminar. “I think our group dynamics, our group chose to do that, to allow the inmates to talk about the three strike rule and the parole system and all that stuff (with slight hint of disgust in voice).” Another thought the seminar got off on the wrong foot from the beginning:

“I think early on we missed a golden opportunity at those moments where they got off the subject, we started to reinforce the game plan a little too late … I asked myself … would there have been a way to do it anyway … first thing to make sure that they don’t use it as a platform about how they were railroaded into prison.”

The selection of victim participants appears crucial. The victims of violent crimes in Seminar 5 were more reticent to express emotions than victims of similar crimes in previous seminars. The victim of the most horrendous crime, a multiple rape victim who had contracted HIV as a result, was reticent to speak in the group, missed a number of the meetings, and did not encourage questions when she told her story. Another victim of domestic violence, while open to sharing her story with the group, was very concerned with keeping control over her emotions. In the post-interview she spoke about telling her story.

“I did it first … (was the first victim to tell her story) … I did not want to cry, this was a big thing with me, huge thing with me. I knew if I started crying, knew I would not be able to get anything across, would not be able to talk … wouldn’t be able to do a thing. So that was a big thing for me, not crying. Afterwards I sort of wished I had expressed more anger. I don’t really think I said I was angry. I might have … but for some reason I felt like I didn’t touch on that enough.”

The result was that she held back from confronting the inmates with the emotions from her victimization. A third victim had been raped twenty years ago while she was in college. She told her story in a way that was not emotionally present to her. In this respect, she did not present herself as a victim in need of solace and care. She had also been a victim of domestic violence after the rape, but did not feel comfortable discussing this in the group:

“I thought in particular the men were compassionate. Now I will tell you something I wished I talked more about … that would have been more relevant … I had also been in a domestic violence relationship … and part of me was hesitant to talk about that, even more so, (because of the) shame, hard for me to pull it all together to talk about rape, talk about domestic violence, I thought it might have been more helpful for those guys (to discuss domestic violence).”

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The three victims of violent crime, in the seminar, held back to varying degrees from actively participating as “victims who had suffered harms” in the fifth seminar. All of the other seminars had victim participants who were able to articulate their suffering in very convincing and moving fashions. Many of these victims had lost a loved one, most often a child, to violent crime. The severity of these crimes and the power of their stories had an immediate impact on the participants. These victim’s stories both moved the other participants and became the touchstone and marker for what the seminars were all about, what harms crimes can do, and what it means to tell a story. They became dramas that, in turn, became the subject of awe and post-seminar conversation. In fact, it can be argued that the power of these victim’s stories helped to motivate the inmates to tell their stories and take the process seriously.

Discussion

Data from the focus groups and the post-seminar interviews indicate that participants in the first four seminars believed they were more successful at the creation of a moral community than those in fifth seminar. For victims, it was important that others hear and respond appropriately to their experiences. It wasn’t that they be affirmed in the role of victim, although for some this was important, but that they be heard. It was critical that their version of events be accepted and their hurt and/or triumph over their hurt be acknowledged. Inmates did not want to be identified as animals and did not want to be thought of badly for what they had done. This made acknowledging what they had done all the more difficult. Many of them struggled with finding some balance between relating to the events of their crime while trying to maintain what they perceived as the necessary dignity as a human being. The success of the seminar sessions depended on the ability of these two groups to negotiate the gap between them and find some common ground for dialogue. Victims and offenders found common ground in acknowledging the injustices of the criminal justice system that both groups had experienced in different ways, in listening and responding to stories, and accepting the hurt that had been caused and the attempts to come to terms with often horrendous acts.

While all agreed that some of the offenders were better off inside the prison, at least for the public’s safety, most offenders in the seminars presented themselves as absolute gentlemen. The problem for victims and community members became determining with whom were they speaking. Was it the cold-blooded killer who had executed someone by pushing his head into the toilet and shooting him, or the gentlemen who expressed genuine remorse and was in contact with at least one of his victim’s families? That this was the same individual, raised the question as to what his words would mean, should the conversation move from the prison to public life. That is, should we all be sitting around having coffee in a café beyond these walls?

The conversations in the seminar constituted a dynamic process, difficult, surprising and empowering. Critical to the process was the creation of a moral community of a common discourse from widely variant positions. As noted above, the goal of the seminars was not to promote healing, it was to bring people together.
to discuss a new way of achieving justice through the restoration of the harms caused. Healing occurred in the midst of these confrontations. Issues of willingness to take responsibility and to repair harms, demonstrations of sincerity and expressions of empathy were all taken as signs that, perhaps, a consensus could be achieved. At the heart of this was the process of coming to mutually recognize one another as persons, capable of being harmed and of suffering. This establishment of contact with one another was the locus of the healing. Or more simply, healing was a process of making contact with the other. Participants established this contact through telling their stories.

Thus, for victims, inmates, and community representatives, stories formed the core and basis of the healing process. It was in and through the stories of victimization, victimizing and trying to make sense of crime, that these three groups began the process of finding some common ground in talking about their worlds and justice. Through the process of telling their stories, looking at the harms that were caused, and the needs of the participants, the members of the seminar began to enter into moral dialogue and argumentation with one another. A byproduct of this process was the experience of healing which, for many of the victims and the inmates, became the *raison d’être* of the seminars. To the extent that this was the case, the participants had wrested the goals of the seminar away from the facilitators and refashioned them to suit their own needs.

The seminars raised numerous questions deserving future exploration. How is one to enter into a meaningful moral dialogue in a situation where one party is constrained in their viewpoints? Will victims and citizens be more accepting of inmates released into their communities as they consistently reported they would on post-seminar questionnaires? Is it possible to recognize the intersubjective validity of the other’s perspective in the context of the watchful eyes of prison guards, strip searches, and realities of probation and parole decisions? Finally, can one know in the absence of the evidence of concrete acts that reform has occurred, that an inmate is truly sorry, that a different path is now being chosen from the one that led him behind prison walls in the first place? While challenging, such questions lead to the heart of restorative justice within correctional environments.

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Family Group Conferencing and Family Violence: One Community’s Power Struggle

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Abstract
This article examines the use of one particular alternative justice model, the family group conferencing method, in cases of violence against women. The author examines the success and problems of the family group conferencing method, as exemplified in the case of a rural community in British Columbia, Canada. The study identifies restorative justice as a viable option for correction system, while also pointing to the fact that one single method does not fit all circumstances and cases. Different models of restorative justice prove to work more effectively in different situations. In this light, it is cautioned not to overreact and, as a consequence, to endanger past and future victims of crime in any given situation or at any given moment.

Keywords: Canada, correction system, restorative justice method, violence against women, family group conferencing.

A 1984 federal position paper, in Canada, made the first formal statement in supporting the replacement of imprisonment with alternative sentencing for some offenders. The Criminal Code of Canada was amended in 1996 to allow for various alternative sentencing and restorative justice measures. Since that time, public debate about the usefulness and effects of these amendments and the efficacy and appropriateness of various alternative justice models has increased. The purpose of this paper is to discuss issues surrounding the use of one alternative justice model, Family Group Conferencing (FGC), in the context of violence against women. A community’s struggle surrounding appropriate diversion decisions for the utilization of FGC, concerning cases of violence against women, will be couched in a rural community in British Columbia, Canada.

The Canadian Corrections Context
From 1989 to 1995, the number of people in federal penitentiaries increased by 22 percent while provincial prisons saw an increase of 12 percent (CPG, 1998). In an attempt to reverse this growth trend, Federal and Provincial Justice Ministers deve-
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developed several strategies. The use of diversion and alternative justice measures was discussed as one viable strategy.

Canada’s incarceration rate is much higher than the rates of many other western countries. In comparing thirteen western countries, in 1998-1999, Canada had the third highest rate of imprisonment. Canada incarcerated 123 people for every 100,000 while all of the Scandinavian countries imprisoned between 54 and 64 for every 100,000. Of the countries compared, only England and the United States had higher imprisonment rates than Canada, with England’s at 126 and USA’s at 682 per 100,000 (CPR, 2000).

This international comparison suggests that Canada could lower incarceration rates without jeopardizing citizen safety or increasing criminal activity. In fact, the rate of incarceration decreased from 133 per 100,000 in 1996 to 123 per 100,000 in 1999. Although this decrease coincides with the development of alternative measures, a decrease in crimes committed suggests that fewer incarcerations may not be the result of these measures alone. In 1999, Canadian police reported that the overall crime rate fell 5 percent. Crime rates, including those of violent crimes, have fallen consistently since 1991 (Corrections Population Report, 2000). Traditionally, imprisonment has been used for several reasons:

1. punish people who have committed a crime,
2. to deter those punished (and others) from committing criminal acts in the future,
3. to protect society from offenders.

A recent, in-depth study reviewed the effects of sentence length to rates of recidivism (Gendreau et al., 1999). Not only did jail time not decrease recidivism but longer sentences were actually associated with a small (3 percent) increase in recidivism. This was true for both low and high-risk offenders. Also, in comparing the effects of incarceration to community-based alternatives, the recidivism rate was 7 percent higher for those imprisoned.

Prisons may still be an appropriate means to protecting society from an individual’s actions but community-based alternative measures and restorative justice are methods of reducing recidivism rates while attempting to repair the harm done to individuals and society (CPR, 2000; Kachuk, 1998a,b). The Throne Speech, in October of 1999, described restorative justice as programs to “help victims overcome the trauma of crime and provide non-violent offenders with a chance to help repair the damage caused by their actions.”

Williams Lake Implements FGC

As information on restorative justice models spread across Canada, many communities began examining ways in which they could be implemented. Williams Lake was one such community. The City of Williams Lake, with a population of approximately 15,000, served 40,000 people living in and around the community. The service area encompassed 45,000 square kilometers and included several small communities surrounding the Williams Lake city limits. The two closest centers have populations of 70,000 each, one 250 kilometers north and the other 300 kilo-
meters south of Williams Lake. Located in British Columbia, near the center of the province, Williams Lake is considered a northern community that is distanced from the majority of the British Columbian population who reside in a band along the south part of the province, close to the United States border.

The economic base of this community is resource extraction through logging, saw and pulp milling, and some mining activity. A significant ranching industry, numerous service and support businesses, and tourism also contribute to the region’s livelihood. The population includes people of Euro-Canadian, First Nation, and Indo-Canadian decent. First Nations make up approximately 9 percent of the population in this area, as compared to 4 percent in the province as a whole. Four percent of the population in Williams Lake’s FGC service area is Indo-Canadian while the majority is Euro-Canadian.

Due to the poor results of the court system, the staff at Williams Lake’s criminal justice system had discussed developing alternatives for some cases. In 1996, the local Royal Canadian Mounted Police (RCMP) developed a Real Justice program instituting an FGC model similar to the program used in the small community of Sparwood, in British Columbia. The program trained a number of community facilitators to lead the conferences. A police officer coordinated the program and approved specific cases for diversion. Presentations on the FGC model were given to the Violence Against Women in Relationships Coordination Committee (VAWIRCC). Young offenders were the initial target group for the FGC program. There was considerable community support for the program in that context, but concern was expressed about the potential use of FGC in cases of violence against women in relationships (VAWIR).¹

The Hopes and Goals of Family Group Conferencing

There are various types of community conferencing models under discussion today (Stubbs, 1995), although it is widely accepted that the original FGC model was pioneered in New Zealand in the late 1980s (Goren, 2001). It has since spread to various other countries including Australia, the United States, and Canada. In the United States and New Zealand, increasing numbers of incarcerated youth, including an over-representation of minority youth, provided much of the impetus to finding alternative methods of addressing crime (Goren, 2001). The belief that traditional punitive methods of responding to a criminal act do not decrease recidivism is coupled with the perspective that the victims of crime are ignored and/or re-injured in the process.

FGC brings the victim, offender, and support networks together with a trained community member who facilitates the process. There are several main objectives in the FGC process:

1. the offender hears about and understands the harm caused by their actions and the effects on the victim,
2. the offender accepts responsibility for their actions,
3. the group jointly determines what needs to be done to restore harmony between the offender and the victim, and also with the community (Kachuk, 1998b).

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Kachuk (1998b) states that the focus of the process is negotiation and dialogue, primarily between the victim and offender. The strength of the model, as stated by MacLeod (1995: 202), is that decision-making lies with the family and in “the strong belief implicit in FGC that families, no matter how troubled, can be responsible for finding ways to stop the violence.”

Goren (2001) writes that FGC represents a fundamental shift in power from the norm of the court system. Power is transferred from the state (typically the courts) to the community. Through FGC, the victim and community have an opportunity to respond to the offender by participating in the development of appropriate consequences and possible treatment.

There has been much praise for restorative justice measures in general, and for FGC in particular. The Supreme Court of Canada lauded the 1996 amendments to the Criminal Code, allowing restorative justice and alternative sentencing measures as “a watershed, marking the first codification and significant reform of sentencing principles in the history of Canadian criminal law” (CPR, 2000).

The hopes for restorative justice focus on the belief that victims and offenders are able to talk about the incident, acknowledge the harm done, and make reparations. The goal is that this will result in healing for the victim, the offender, and the community. Anecdotal discussions suggest that there is more satisfaction, by all parties, regarding the outcome of restorative justice measures in comparison to traditional court proceedings. Goren (2001) cites a study of young offenders that found victims involved in a mediation process with their offender (another type of restorative justice) had higher satisfaction levels than similar victims whose cases went through the courts.

The FGC process facilitates a healthy reintegration of the offender back into the community (Goren, 2001). By hearing the victim talk about the harm they experienced, the offender will better understand the consequences of their actions and be less likely to re-offend. Goren’s report (2001) also demonstrates a decrease in recidivism rates for young offenders who participated in a mediation process. Although Goren reports increased victim satisfaction and decreased recidivism rates associated with mediation models in the US, it should be noted that victim-offender mediation programs are a different type of restorative justice model than the FGC model (Hooper and Busch, 1996). To suggest that the US mediation results accurately represent the results for the FGC model in New Zealand is a stretch. The only outcomes Goren describes that are specific to the New Zealand situation include a 50 percent drop in prosecutions and incarcerations from 1989 (the year of implementation) to 1996, as well as a substantial decrease in the numbers of youth in state institutions. While these decreases are certainly part of the goal of restorative justice measures, they are not, in and of themselves, an indication of a successful program. In addition, Goren does not mention research indicating possible concerns with the New Zealand FGC model, such as the Maxwell and Morris findings (1996) that, after conferences, 38 percent of victims felt worse (Hooper and Busch, 1996).

One of the key issues with the New Zealand FGC model is that it was designed to target young offenders, not family violence. Although Goren’s article does not discuss the model in the context of family violence issues, other professionals have
extended the FGC process to include these issues, such as the pilot projects in Newfoundland and Labrador, Canada (MacLeod, 1995) and the RCMP detachment in Williams Lake.

**Conflicts in Williams Lake’s Decision to Utilize FGC in VAWIR Cases**

There are various arenas in the justice process to utilize diversion. For example, the process may be initiated after a charge is laid to avoid court use in determining guilt or innocence in sentencing. It may also be used as a sentencing tool after a court process has determined guilt. In the community of Williams Lake, FGC was introduced as a pre-charge diversion model. This means that no charges are laid when a decision is made to use FGC unless the process breaks down. The decision is at the discretion of the police officers at this stage. One concern identified in the literature is that police officers are well trained at doing police work, but may have little of the necessary and specialized training for this situation (Stubbs, 1995). In addition, FGC is intended to be a model where the power is transferred from the state to the community (Goren, 2001), whereas in Williams Lake, the power is transferred to different components within the state, the court system to the police.

Another concern with diversion at the pre-charge stage is offender accountability and the ability to effectively monitor recidivism rates after the process is complete. If a person is charged and then diverted, that information will follow with their criminal record. Should there be a future offence, the police officers would be aware of the history. With a pre-charge diversion there is, typically, no formal information record. The local police officers may be aware of the person’s history but if the individual moves to a new community and re-offends it may simply be treated as another first offence. The VAWIR Coordination Committee expressed these concerns to the Williams Lake RCMP.

The Williams Lake FGC program has primarily been used for minor or non-violent offences and, from reports by the RCMP community policing and FGC program coordinator, has been very successful. Recidivism rates are extremely low and parties have reported satisfaction with the process and results. There has been some criticism from the social service community regarding accountability and lack of monitoring of outcomes, including the offender’s completion of counseling/treatment or other sanctions. Due to the lack of independent tracking there is no information on the types of cases being diverted to this program. Although the goals of decreased recidivism and higher victim satisfaction are laudable, without adequate monitoring and community support it is only about saving money. Without monitoring, the only way to find out about the success or failure of the program is if someone within the RCMP is willing to share the information, often at significant risk to his or her career (Kachuk, 1998a,b).

Although the community has expressed reluctance in utilizing this model in family violence cases, the RCMP has indicated that they would like to divert these cases. If the RCMP diverts VAWIR cases then they are not sharing that information with anyone. It would be logical to include the professionals involved in VAWIRCC in monitoring and analyzing the effectiveness of the FGC model being used in Williams Lake. Instead, the conflict between the RCMP’s interest in
diverting VAWIR cases and the committee’s refusal to agree to this has increased tensions between the two groups.

The goal of the Williams Lake VAWIR Coordination Committee is to analyse the criminal justice system’s response to victims of violence and to ensure that the safety of women. In 1999, the RCMP began a dialogue with the Committee regarding diversion of VAWIR cases through the FGC program. Those discussions revealed that the RCMP had a fundamentally different analysis of the culture of violent relationships than did service providers working with women. The belief by RCMP members that most assaults were arguments that got out of hand demonstrates a lack of understanding of the dynamics of power and gender, as well as the historical factors that compound women’s experience of violence. The VAWIR Coordination Committee maintained the position that service providers had much to offer as a resource for safety planning, and that exposing FGC facilitators and RCMP officers to a feminist analysis of violence against women would change their beliefs and their management of responses to VAWIR cases. Attempts to provide information and education for members of the Real Justice Council were met with strong resistance and seen as special interest group lobbying.

Some success was realized when the FGC Coordinator, a local RCMP officer, attended a three day training seminar on community response to VAWIR offered by the policy division of the Ministry of Attorney General of BC. VAWIR Committee members witnessed a complete change in the attitude and position of the FGC Coordinator regarding this issue, and he made a verbal commitment not to divert any VAWIR cases. He drafted a formal protocol for the FGC program to prevent the program from using diversion in any VAWIR cases. This success ended when the officer suddenly and unexpectedly left the RCMP force shortly after submitting the formal protocol draft. The RCMP detachment staff sergeant refused to approve the protocol. Within a few months the VAWIR Coordination Committee experienced renewed pressure from the RCMP to utilize FGC in VAWIR cases, particularly in First Nations communities.

The dialogue continues and there is no resolution in sight. It is unclear whether pre-charge diversion of VAWIR cases have been used since the inception of the FGC program. In the late 1990s, the BC Attorney General issued a suggested policy that cases of violence against women, children, and sexual assault not be diverted. Williams Lake RCMP representatives indicate that they will comply with the BC Attorney General’s suggestion while continuing to exercise their discretion over the use of Family Group Conferences at the pre-charge stage.

Reasons for Concern Regarding FGC and VAWIR Cases

The VAWIR Coordination Committee has legitimate concerns about the use of FGC for family violence cases, as has been demonstrated elsewhere (Hooper and Busch, 1996; Stubbs, 1995). Hooper and Busch (1996: 9) state that, in one study, two-thirds of conference facilitators reported hostility including “shouting, verbal abuse, threats and even physical violence.” They give several examples.
“One facilitator reported to one of the authors that she had to hurriedly abort a care and protection conference when a husband who battered his wife shouted ‘one more f… word from you and I’ll throw you out this bloody window.’ Another facilitator described how, at a FGC, the perpetrator was able to force his partner to forego the support of her family by simply snapping his fingers and pointing to the empty chair beside him, the wife then moved ‘automaton-like to his side.’ A year later, the woman was killed and her partner has now been found guilty of her murder (Hooper and Busch, 1996: 10).”

In an example from the Newfoundland and Labrador project, the abuser coerced the victims to recant their abuse (Hooper and Busch, 1996). Hooper and Busch state that there is a risk of compromising the safety of FGC participants, including that of the facilitator. When this is a possibility, the facilitators may become reluctant to challenge the abuser’s use of power and control over the victim and others in the conference, rendering the process useless and possibly harmful.

These serious issues are reasons why FGC, and possibly other restorative justice measures, may not be appropriate for VAWIR cases. At the least, they indicate the need for specialists to be involved at every step of the process to continually assess the appropriateness of each case for diversion. In Williams Lake, as in many small, northern communities, experts are few and far between. In fact, the FGC facilitators in Williams Lake are volunteers from the community. Although they receive some training, it is unlikely to qualify them as specialists in mediating family violence meetings. It is likely that few of those involved in the FGC process in this community are even aware of the extent of the dangers. In many situations, restorative justice programs are useful tools in repairing damage caused by the offender’s actions and in reducing recidivism. In other situations, restorative justice may perpetuate unsafe situations or even increase the risk of danger to the victim. The dynamics specific to VAWIR cases are crucial in this discussion.

On average, by the time a woman reports an assault she has been beaten 35 times. The dynamics of relationship violence and the psychological effect of living in an atmosphere in which a woman’s value has been continually negated results in the victim minimizing previous incidents and even the current assault. She may not reveal that there have been previous incidents of violence in an attempt to protect herself from further violence or her partner from the consequences of her decision to call the police. Therefore, it is likely that VAWIR cases being considered for FGC are not first offences, even though no record of previous incidents exists in the legal system (cf Kachuk, 1998a,b).

Mediation is not an appropriate means of dealing with incidents of violence against women in relationships because it assumes that both parties have equal bargaining power. Given the realities of the power differential between partners and the threat of physical, emotional, and psychological injury, women are likely to say what will keep them safe. The principle of having offenders face their victim and see the consequences of their actions (crime) is not likely to have an effect on men who have assaulted their partner. They live with the victim and see the
consequences on a daily basis and this does not stop them from continuing to inflict abuse. The process of mediating through FGC puts women in the position of having to negotiate for their safety. Negotiation implies giving something up in return for concessions by the other party, but no woman should be forced to give up anything in return for her safety.

More women are killed at the time of or immediately after separation than at any other time. This is also the time when they are most vulnerable to recanting as they face living without someone they love and possibly without the financial support contributed by the offending partner. This is not the time to ask women to agree on a process that may hold hope of positive reconciliation, enabling them to live safely within that relationship. Women continue to express fear of the consequences of speaking out during a FGC process, particularly if they are living with the abuser (Oglov, 1997).

Other Canadian Responses to FGC

Organizations and individuals are acknowledging the potential for damage if restorative justice measures are not implemented cautiously and appropriately. In the late 1990s, the British Columbia Ministry of Attorney General developed guidelines for police and community group’s use of diversion measures. They recommend that cases involving violence against women in relationships and sexual assault not be considered unless determined by Crown Counsel to be appropriate. However, these recommendations are not, necessarily, being adhered to by police and crown counsel in all communities. Sparwood, the Fraser Valley, and Williams Lake are examples of communities where the Attorney General’s suggestions are being ignored (Kachuk, 1998a).

The Vancouver Police Department is working within these guidelines and has issued a directive to members “not to divert any cases involving violence against women in relationships” (Kachuk, 1998a). It is hoped that they will also extend this to include cases of sexual assault of women and children.

Many women’s organizations are concerned about potential damaging repercussions to women and children who have experienced male violence. The coordinator of a safe homes program for women and children, in Sparwood, wrote to the Attorney General of BC regarding her concerns about the use of diversion in cases of spousal assault (Bauer, 1997). The BC/Yukon Society of Transition Houses issued a draft paper outlining similar concerns (Oglov, 1997). The Nova Scotia Status of Women is working with the province to develop policies and procedures for appropriate use of restorative justice and alternative sentencing measures. Many women’s organizations across Canada are becoming increasingly concerned and vocal about the inappropriate and dangerous use of these measures in cases of male violence to women and children.

Restorative justice techniques are often hailed as having originated in indigenous peoples’ histories and traditions, and therefore are thought to be especially relevant to these communities (Goren, 2001; Herbert, 1995). LaRoque described the treaty rights in Canada where Aboriginal communities historically punished offenders and exacted retribution for wrong doing, especially in cases of violence
where mediation was not an option (LaRoque, 1997). She also suggested that, in some present-day cases, restorative justice has done more harm than good. She used an example from 1993, where a couple convicted of numerous accounts of sexual abuse of their daughters, over several years, were sentenced by the community (circle sentencing) to 3 years of probation in the community and ordered to engage in a healing process. LaRoque (1997) states that Native women across Canada were outraged by this event.

**Recommendations From Williams Lake**

Sufficient information on the dangers of using FGC with VAWIR cases exists to warrant either excluding these cases from this process or proceeding with extreme caution. The primary lesson from Williams Lake is that with no mandatory provincial or federal policy on the appropriate use of FGC every community must fight a local battle to educate RCMP, crown counsel, and others on the dangers of FGC in VAWIR cases. The fear is that some communities will lose the battle and women’s lives will be at risk.

The position paper from the Women’s Center in Williams Lake makes several policy recommendations. They begin by stating that the use of FGC and other restorative justice measures in VAWIR, sexual assault, and child abuse cases should be halted until there is thorough review of the research and implementation of policies at the provincial level based on the findings. Justice specialists, women’s organizations, and VAWIR specialists should be involved in this policy development (Peters and Burrill, 2001).

It is also important that research continue to explore the use and outcomes of restorative justice measures. These studies must look beyond the cost and time savings to the correctional system. Examining recidivism rates, satisfaction levels of those involved, and the repercussions for the victim, community, and offender is also important. It is especially important that comparisons of the outcomes for different types of offences be examined and considered.

**Conclusion**

Although restorative justice is not a one size fits all, this is not intended to be an argument for simply eliminating restorative justice from the list of correction options. Restorative justice has great potential for addressing some of the historic problems in Canada’s justice system. But it must be done carefully and with full consideration of all possible dynamics. Different models prove to work more effectively in different situations. We must not become so excited at the prospect of a quick cure that we risk women’s lives in the process.
References


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RESTORING JUSTICE


Restoring Justice provides the reader with a comprehensive understanding of the philosophy, values, and critical elements needed in implementing a restorative justice system. The book presents a clear and concise historical perspective on the restorative justice movement and current revisions in the US and international criminal justice systems. A framework for thinking about a restorative system is presented. The authors draw on the strengths perspective, the use of narratives, and collaboration in our approach to maximize the healing of victims, offenders, and community.

The book begins with a vision of restorative justice by constructing a new pattern of thinking about crime and justice. According to the authors, “crime is not just an offense against the state, and justice is more than punishment and incapacitation.” Ancient patterns of dealing with crime and punishment, and traditional approaches to crime of indigenous populations in North America, New Zealand, Australia, and other countries are discussed. These patterns and traditions are restorative in nature and intent. Practical and conceptual explanations for why rehabilitative programs have not met expectations are also reviewed. The evolution of reform movements emerged due to the dissatisfaction of the modern criminal justice system.

These movements, and their contribution to restorative justice theory, are presented in a general outline. Part I concludes with the fundamental propositions in which a restorative system could be constructed. First, they suggest that crime is more than lawbreaking. It causes injuries to the victims, the community, and the offender, all of which need attention. Second, they recommend including all parties from the beginning, to the fullest extent possible. Third, a cooperative effort in responding to crime is needed to enhance community building. Building on the strengths of community and government is vital to crime prevention.

Part II focuses on the values of restorative justice. Mediation, conferencing, circles, and impact panels enable the participants to encounter one another outside of the courtroom. This process is designed to promote empowerment, dialogue, and mutual problem solving among the participants. Advantages of these programs are presented, as well as important questions that need to be considered before implementing such programs. Deciding how to minimize coercion of participants, who to include in the encounter, and how to assess the “restorativeness” of these approaches are some of the issues that need to be addressed.
The importance of *amends* via apology, changed behavior, restitution, and generosity is covered in detail. Questions related to restitution reflecting the seriousness of the offense, injuries, which restitution would be provided, and the results of potential infeasibility of restitution are also addressed. A chapter is dedicated to the community reintegration process as contributing, productive individuals. The importance of support and assistance groups, as well as faith communities is highlighted due to their ability to offer both victims and offenders validation to their recovery and the strength to work toward re-entry into their community. A discussion on reintegrative shaming versus punishment is presented. Part II concludes with identifying principles that provide bases for formal *inclusion* of the victim to pursue restitution in the criminal justice system.

The final section of the book examines conceptual and practical objections to restorative justice. The authors draw on the current literature and research conducted on restorative programs, worldwide. The analysis provides a clear understanding of the difference between the restorative justice vision and current practice. They suggest values and elements that must be included in a restorative program. The authors stress the importance of proper program design, training, planning, consultation, collaboration and consistent evaluation of outcomes, to ensure that good practices are followed. The book concludes with strategies to assist advocates in promoting restorative justice action and to assess the restorativeness of policies and programs. Possible models of a restorative system are presented, and a framework for assessing these systems and strategic issues are highlighted.

*Restoring Justice* is a very well written, comprehensive book on restorative justice. Concepts and principles are clearly explained for those new to this conceptual framework. The integration of theory and practice approaches are very helpful. This is a useful book for practitioners, program managers, and students in the human services and criminal justice fields. Inclusion of some anecdotal cases would have been useful, particularly to students. The common concerns in adopting a restorative justice system would be useful to those individuals struggling between varying perspectives.

The identification of restorative programs and practices that are currently in existence around the world was interesting and useful for further exploration into the design and implementation of these programs into existing systems.

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THE GUILT OF NATIONS: RESTITUTION AND NEGOTIATING HISTORICAL INJUSTICES


Barkan identifies his purpose as one of exploring the trend for restitution as a result of international morality. He purports to do this by telling the stories of the most significant cases. Barkan asks the question of why such restitution is now commonplace and then seeks to answer that question. He asserts that the “willingness of nations to embrace their own guilt … is the new guilt of nations.”

Restitution, reparations, and apologies are all different levels of admission of wrongdoing and the need to respond to injustices. One could assume these different levels of acknowledgement are related to the level of injustice perpetrated against the victim. The more severe the level of injustice, the greater the need to go beyond apology and all the way to restitution (return of stolen belongings) or reparation (compensation for losses that cannot be returned, such as life, liberty, or belongings that have been destroyed.)

Barkan begins with German reparations following World War II and continues with the most widely recognized groups who have been exploited, including Africans enslaved by the American South, the genocide and loss of lands of the Native Americans, among others. He attempts to trace the patterns in these events that could lead to a theory of restitution. Often confusing, Barkan seems to take one opinion and then the opposite when he discusses each of these significant examples. Rather than seeming like a systemic view (recognizing that there are different opinions or views of the event) his rendition makes for difficult reading where the reader is never really sure what point he is making. As a result, the detail is tedious and often difficult to comprehend, requiring repetitious readings of the passage in order to decipher what he is attempting to say.

With that being said, Barkan then explains his theory of restitution for historical injustices as one of negotiated justice. This chapter is perhaps the clearest, and one could map the components of the proposed theory rather easily. This theory includes both “attentiveness to moral issues” and “international public opinion and organizations.” Utilizing this viewpoint, Barkan asserts that liberal societies are more likely to recognize these past public injustices. Barkan also draws on concepts by Adam Smith to explain “justice as a result of our sympathy with individuals who suffer” as well as the Judeo-Christian heritage of not only extending sympathy to those vulnerable (the widows and orphans) but feeling guilty if we fail to do so. If we fail to do something in the face of those who are suffering when we are not suffering—and possibly prospering—then we are “guilty” under the liberal-humanist philosophy.

What is never really clear is the why: Why have nations embraced this new guilt and dealt with it by acknowledging wrongdoing and making restitution. Is it a
political reality that buys political currency in world opinion, or is there in fact some new morality that compels people to admit wrongdoing and want to correct it? Although Barkan provides detail and important events, I never get the sense he has answered the question he purports to ask.

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