

Selected Readings

General introductions to restorative justice

- Cayley, David. *The Expanding Prison: The Crisis in Crime and Punishment and the Search for Alternatives* (House of Anansi Press, Canada, 1998).
- Consedine, Jim. *Restorative Justice: Healing the Effects of Crime* (Flowshares, New Zealand, 2nd edition).
- Johnstone, Gerry. *Restorative Justice: Ideas, Values, Debates* (Willan Publishing, U.K., 2002).
- Ross, Rupert. *Returning to the Teachings: Exploring Aboriginal Justice* (Penguin, Canada, 1996).
- Sharpe, Susan. *Restorative Justice: A Vision for Healing and Change* (Edmonton Victim Offender Mediation Society, #205, 10711-107 Ave., Edmonton, Alberta T5H 0W6, Canada, 1998).
- Van Ness, Dan and Karen Heetderks Strong. *Restoring Justice* (Anderson, U.S., 2nd edition, 2001).

Wright, Martin. *Justice for Victims and Offenders* (Waterside Press, U.K., 2nd edition, 1996).

Zehr, Howard. *Changing Lenses: A New Focus for Crime and Justice* (Scottdale, Pennsylvania: Herald Press, 1990/95).

For restorative justice websites and a more extensive bibliography, see <http://www.restorativejustice.org>.

Related books by Howard Zehr

- Doing Life: Reflections of Men and Women Serving Life Sentences* (Intercourse, Pennsylvania: Good Books, 1996).
- Transcending: Reflections of Crime Victims* (Intercourse, Pennsylvania: Good Books, 2001).

THE LITTLE BOOK OF

Restorative Justice



A bestselling book by one of the founders of the movement

HOWARD ZEHR

Both retributive and restorative theories of justice acknowledge a basic moral intuition that a balance has been thrown off by a wrongdoing. Consequently, the victim deserves something and the offender owes something. Both approaches argue that there must be a proportional relationship between the act and the response. They differ, however, on the currency that will fulfill the obligations and right the balance.

Retributive theory believes that pain will vindicate, but in practice that is often counterproductive for both victim and offender. Restorative justice theory, on the other hand, argues that what truly vindicates is acknowledgment of victims' harms and needs, combined with an active effort to encourage offenders to take responsibility, make right the wrongs, and address the causes of their behavior. By addressing this need for vindication in a positive way, restorative justice has the potential to affirm both victim and offender and to help them transform their lives.

Criminal justice vs. restorative justice?

Restorative justice advocates dream of a day when justice is fully restorative, but whether this is realistic is debatable, at least in the immediate future. More attainable, perhaps, is a time when restorative justice is the norm, while some form of the legal or criminal justice system provides the backup or alternative. Possible, perhaps, is a time when all our approaches to justice will be restoratively oriented.

4. Is it Either/Or?

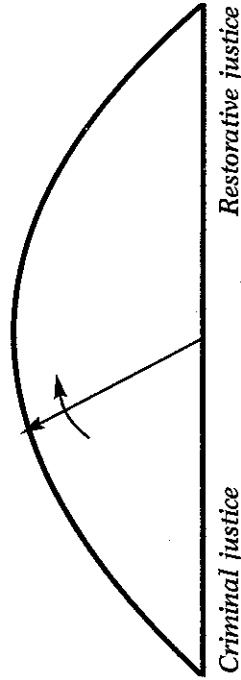
In my earlier writings, I often drew a sharp contrast between the retributive framework of the legal or criminal justice system and a more restorative approach to justice. More recently, however, I have come to believe that this polarization may be somewhat misleading. Although charts that highlight contrasting characteristics illuminate some important elements differentiating the two approaches, they also mislead and hide important similarities and areas of collaboration.

Retributive justice vs. restorative justice?

For example, philosopher of law Conrad Brunk has argued that on the theoretical or philosophical level, retribution and restoration are not the polar opposites that we often assume.¹ In fact, they have much in common. A primary goal of both retributive theory and restorative theory is to vindicate through reciprocity, by evening the score. Where they differ is in what each suggests will effectively right the balance.

Society must have a system to sort out the "truth" as best it can when people deny responsibility. Some cases are simply too difficult or horrendous to be worked out by those with a direct stake in the offense. We must have a process that gives attention to those societal needs and obligations that go beyond the ones held by the immediate stakeholders. We also must not lose those qualities which the legal system at its best represents: the rule of law, due process, a deep regard for human rights, the orderly development of law.

Real world justice might also best be viewed as a continuum. On the one end is the Western legal or criminal justice system model. Its strengths—such as the encouragement of human rights—are substantial. Yet it has some glaring weaknesses. At the other end is the restorative alternative. It, too, has important strengths. It, too, has limits, at least as it is currently conceived and practiced.



A realistic goal, perhaps, is to move as far as we can toward a process that is restorative. In some cases or situations, we may not be able to move very far. In others, we may achieve processes and outcomes that are truly restorative. In between will be many cases and situations where both systems must be utilized, and justice is only partly restorative.

Meanwhile, we can dream of a day when this particular continuum is no longer relevant because its both ends will rest on a restorative foundation.

Restorative justice is a river

Some years ago, while living in Pennsylvania, my wife and I set out to find the source of the Susquehanna River that flows through that state. We followed one of its two branches until we arrived behind a farmer's barn and found a rusty pipe sticking out of a hill. Fed by a spring, the water fell from the pipe into a bathtub that served as a watering trough for cattle. It spilled over the bathtub, spread out along the ground, then formed the stream that eventually became a mighty river.

It is, of course, debatable whether this particular spring is *the* source. There are other springs in the vicinity that could compete for that honor. And, of course, this stream would not be a river if it were not fed by hundreds of other streams. Nevertheless, this river and this spring have become my metaphor for the restorative justice movement.

The contemporary field of restorative justice started as a tiny trickle in the 1980s, an effort by a handful of people dreaming of doing justice differently. It originated in practice and in experimentation rather than in abstractions. The theory, the concept, came later. But while the immediate sources of the modern restorative justice stream are recent, both concept and practice draw upon traditions as deep as human history and as wide as the world community.

For some time the restorative justice stream was driven underground by our modern legal systems. In the

last quarter century, however, that stream has resurfaced, growing into a widening river. Restorative justice today is acknowledged worldwide by governments and communities concerned about crime. Thousands of people around the globe bring their experience and expertise to the river. This river, like all rivers, exists because it is being fed by numerous tributaries flowing in from around the world.

Some of the feeder streams are practical programs, such as those being implemented in many countries throughout the globe. The river is also being fed by a variety of indigenous traditions and current adaptations which draw upon those traditions: family group conferences adapted from Maori traditions in New Zealand, for example; sentencing circles from aboriginal communities in the Canadian north; Navajo peacemaking courts; African customary law; or the Afghani practice of *jirga*. The field of mediation and conflict resolution feeds into that river, as do the victims-rights movements, and alternatives-to-prison movements of the past decades. A variety of religious traditions flow into this river.

While the experiments, practices, and customs from many communities and cultures are instructive, none can or should be copied and simply plugged into communities or societies. Rather, they should be viewed as examples of how different communities and societies found their own appropriate ways to express justice as a response to wrongdoing. These approaches may give us inspiration and a place to begin. While these examples and traditions may not provide blueprints, they may serve as catalysts for forming ideas and directions.

This context-oriented approach to justice reminds us that true justice emerges from conversation and takes

into account local needs and traditions. This is one of the reasons why we must be very cautious about top-down strategies for implementing restorative justice.

The argument presented here is quite simple: justice will not be served if we maintain our exclusive focus on the questions that drive our current justice systems: What laws have been broken? Who did it? What do they deserve?

True justice requires, instead, that we ask questions such as these: Who has been hurt? What do they need? Whose obligations and responsibilities are these? Who has a stake in this situation? What is the process that can involve the stakeholders in finding a solution? Restorative justice requires us to change not just our lenses but our questions.

Above all, restorative justice is an invitation to join in conversation so that we may support and learn from each other. It is a reminder that all of us are indeed interconnected.

1.2 *Victims, offenders, and the affected communities are the key stakeholders in justice.*

1.2.1 A restorative justice process maximizes the input and participation of these parties—but especially primary victims as well as offenders—in the search for restoration, healing, responsibility, and prevention.

1.2.2 The roles of these parties will vary according to the nature of the offense, as well as the capacities and preferences of the parties.

1.2.3 The state has circumscribed roles, such as investigating facts, facilitating processes, and ensuring safety, but the state is not a primary victim.

2.0 *Violations create obligations and liabilities.*

2.1 *Offenders' obligations are to make things right as much as possible.*

2.1.1 Since the primary obligation is to victims, a restorative justice process empowers victims to effectively participate in defining obligations.

2.1.2 Offenders are provided opportunities and encouragement to understand the harm they have caused to victims and the community and to develop plans for taking appropriate responsibility.

2.1.3 Voluntary participation by offenders is maximized; coercion and exclusion are minimized. However, offenders may be required to accept their obligations if they do not do so voluntarily.

APPENDIX I

Fundamental Principles of Restorative Justice

Howard Zehr and Harry Mika¹

1.0 Crime is fundamentally a violation of people and interpersonal relationships.

1.1 *Victims and the community have been harmed and are in need of restoration.*

1.1.1 The primary victims are those most directly affected by the offense, but others, such as family members of victims and offenders, witnesses, and members of the affected community, are also victims.

1.1.2 The relationships affected (and reflected) by crime must be addressed.

1.1.3 Restoration is a continuum of responses to the range of needs and harms experienced by victims, offenders, and the community.

- 2.1.4 Obligations that follow from the harm inflicted by crime should be related to making things right.
- 2.1.5 Obligations may be experienced as difficult, even painful, but are not intended as pain, vengeance, or revenge.
- 2.1.6 Obligations to victims, such as restitution, take priority over other sanctions and obligations to the state, such as fines.
- 2.1.7 Offenders have an obligation to be active participants in addressing their own needs.

2.2 *The community's obligations are to victims and to offenders and for the general welfare of its members.*

- 2.2.1 The community has a responsibility to support and help victims of crime to meet their needs.
- 2.2.2 The community bears a responsibility for the welfare of its members and the social conditions and relationships which promote both crime and community peace.
- 2.2.3 The community has responsibilities to support efforts to integrate offenders into the community, to be actively involved in the definitions of offender obligations, and to ensure opportunities for offenders to make amends.

- 3.0 Restorative justice seeks to heal and put right the wrongs.
- 3.1 *The needs of victims for information, validation, vindication, restitution, testimony, safety, and support are the starting points of justice.*
 - 3.1.1 The safety of victims is an immediate priority.
 - 3.1.2 The justice process provides a framework that promotes the work of recovery and healing that is ultimately the domain of the individual victim.
 - 3.1.3 Victims are empowered by maximizing their input and participation in determining needs and outcomes.
 - 3.1.4 Offenders are involved in repair of the harm insofar as possible.
- 3.2 *The process of justice maximizes opportunities for exchange of information, participation, dialogue, and mutual consent between victim and offender.*
 - 3.2.1 Face-to-face encounters are appropriate for some instances, while alternative forms of exchange are more appropriate in others.
 - 3.2.2 Victims have the principal role in defining and directing the terms and conditions of the exchange.
 - 3.2.3 Mutual agreement takes precedence over imposed outcomes.
 - 3.2.4 Opportunities are provided for remorse, forgiveness, and reconciliation.

The Little Book of Restorative Justice

3.3 *Offenders' needs and competencies are addressed.*

- 3.3.1 Recognizing that offenders themselves have often been harmed, healing and integration of offenders into the community are emphasized.
- 3.3.2 Offenders are supported and treated respectfully in the justice process.
- 3.3.3 Removal from the community and severe restriction of offenders is limited to the minimum necessary.
- 3.3.4 Justice values personal change above compliant behavior.

3.4 *The justice process belongs to the community.*

- 3.4.1 Community members are actively involved in doing justice.
- 3.4.2 The justice process draws from community resources and, in turn, contributes to the building and strengthening of community.
- 3.4.3 The justice process attempts to promote changes in the community to both prevent similar harms from happening to others, and to foster early intervention to address the needs of victims and the accountability of offenders.

Fundamental Principles of Restorative Justice

3.5 *Justice is mindful of the outcomes, intended and unintended, of its responses to crime and victimization.*

- 3.5.1 Justice monitors and encourages follow-through since healing, recovery, accountability, and change are maximized when agreements are kept.
- 3.5.2 Fairness is assured, not by uniformity of outcomes, but through provision of necessary support and opportunities to all parties and avoidance of discrimination based on ethnicity, class, and sex.
- 3.5.3 Outcomes which are predominately deterrent or incapacitative should be implemented as a last resort, involving the least restrictive intervention while seeking restoration of the parties involved.
- 3.5.4 Unintended consequences such as the co-optation of restorative processes for coercive or punitive ends, undue offender orientation, or the expansion of social control, are resisted.