

Restorative Justice and its Paradoxes

by George Pavlich

Almost three years ago, I presented a “work-in-progress” chapter of a proposed book to a Vancouver audience. In that talk, I called attention to something that both intrigued and troubled me about dominant self-perceptions within the restorative justice movement. I kept hearing and reading that restorative justice offered a radically new “lens” from which to approach justice, a fundamentally different vision of justice from those on offer within retributive criminal justice institutions, such as courtrooms and prisons. At the same time, I was made aware that restorative justice programs are usually established within, or as a complement to criminal justice institutions, mostly to secure such things as: a steady flow of clients, financial resources, political credibility, and a foothold in the existing system.

In the talk, I remarked on the perplexing incongruity of a strategy that claims to establish an independent entity (i.e., restorative justice) that is *radically* (i.e., at root) different from state criminal justice, but which *at the same time* sees itself as complementing this criminal justice. On this score, I received an interesting question from a practitioner who shared my disquiet: she asked whether the incongruous strategy not might explain her (and other people’s) sense that the incandescent promise of early community justice activism, the bright pledge to find a communal justice beyond state criminal law, had dimmed as bureaucratic accommodations were made in the interests of complementing criminal justice and securing the long-term political survival of restorative justice projects.

Now I was really intrigued, since that question seemed to contain the seeds

of what I would later term an *Imitor Paradox*, which I repeatedly confronted while reading influential texts in the field. I wrote my arguments down in a book called **Governing Paradoxes of Restorative Justice** (GlassHouse Press, 2005), the basics of which may be approached through three related questions.

What are the Contours of Restorative Justice’s Paradox?

The basic form of the paradox lies in restorative justice’s simultaneous critique and implicit endorsement of criminal justice. Let us recall, alternative dispute resolution (ADR), community justice, neighborhood justice, victim-offender mediation and lately restorative justice became popular with academics and practitioners precisely because their far-reaching critiques of criminal justice seemed so valid to many people. Indeed, these critiques opened the existing system up to its entrenched shortfalls and hence the attraction of various ADR, community and restorative justice programs. The very integrity of restorative justice as an independent set of values and practices was created through a deep-seated critique of adversarial courtroom methods and a promise to establish an alternative ethos of justice.

One need not rehearse the complexities of the critique here. In short, however, restorative justice proponents disputed the founding moral values and institutional processes of an adversarial, retributive, offender-orientated approach to justice. They pointed to profoundly detrimental effects of criminal justice: high cost, delays, conflict-generating procedures, alienating language, guilt emphasized at the expense of victims, minimal if any community input, retributive punishments that do not heal offenders, and so on. Such features encouraged further crime and conflict doing little to bring lasting peace to victims and communities. More than this, the modern state’s criminal justice system was thought to have usurped the community’s ability to deal with conflict and crime.

Such criticisms provided a theoretical, cultural and political platform from which proponents could seek an alternative type of justice when dealing with crime – one developed out of “restorative” values with communally-inspired and victim-centered practices (e.g., Family Group Conferences) directed to the harms (to victim, community and offender) of a criminal

Paradoxes
continues on page 14

IN THIS ISSUE

Restorative Justice and its Paradoxes.	1
Developing Restorative Justice in Missouri	3
VOMA Explores Transition Options	5
Restorative Justice: Imagining the Possibilities	6
The Concept of Restorative Justice in African Traditional Heritage	7
Justice That Heals and Transforms	8
New Resources for the Practice of Restorative Justice	10
Restorative Justice Roots in Indian Popular Culture and Gandhian Philosophy	11
Working with Judges to Affect Change in the Criminal Justice System	13
International Perspectives on Restorative Justice	15

VOMA Connections

VOMA Connections is published four times a year by the International Victim Offender Mediation Association.

The Mission of VOMA is promoting and enhancing restorative justice dialogue, principles, and practices. Our mission will be achieved only with a commitment to full diversity and equality of participation for all people. VOMA holds this commitment as central in its work.

VOMA welcomes contributions, including short articles, literature reviews, case studies, program news, and other interesting information. Photos and graphics are also welcome.

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Developing Restorative Justice in Missouri

by Nina Balsam

Missouri is in the process of implementing a statewide Restorative Justice Initiative, which was developed by a Task Force of the Board of Directors of the Center for Women in Transition (CWIT). CWIT is a nonprofit group that administers a diversion and re-entry program for non-violent women offenders in the St. Louis Metropolitan Area. The organization was started in the late 1990's by four women who were working with women offenders in, or just being released from, prison. Two of the four founders were members of the Sisters of Mercy religious order. The organization has always been committed to the concept of Restorative Justice.

The CWIT Task Force was made up of persons who were considered stakeholders in Restorative Justice: victims, offenders, criminal justice personnel, and members of the faith community. These stakeholders spent a year and a half, informing themselves about restorative justice through readings, attending workshops, bringing in speakers. Thereafter, they drafted the Missouri Restorative Justice Initiative (MORJI) and received funding to implement it (mostly from private, faith-based foundations).

The MORJI's goals, in a nutshell, are to expand awareness of, and a buy-in for, restorative justice and to promote more restorative justice programming in the state. This is a three-year project with specific, measurable outcomes. A research component was incorporated into the Initiative in order to track our progress in attaining these outcomes.

Director Hired

In late November of 2004, a director was hired to implement the Initiative. The director is a lawyer with experience in public policy work and building coalitions. She believed that, because the Initiative was statewide and was designed to infiltrate all relevant communities, an infrastructure should be created to account for that geographic and substantive breadth. She decided to convene a coalition of stakeholders that would serve this purpose.

The director divided the state into five geographic regions and invited representation on the Coalition from each of the regions. Two of the five, the N.E. and N.W. regions, encompass major metropolitan areas as well as rural areas. The other three, the S.E., S.W. and Central regions, are more rural. She also identified one person from each of the regions to be the Regional Representative. She identified the substantive or interest groups that should be "at the table" in order for the Initiative to be fully implemented, and tried to get representatives in each of these areas to serve in the coalition. The substantive areas identified were: Adult Courts (prosecutors, judges, defense attorneys); Corrections (law enforcement, the Department of Corrections and private entities doing restorative work related to corrections); Juvenile (court personnel and private entities); Faith; Victim Organizations (governmental and private); Offenders; Public Policy (legislators and the Executive Departments); Academics; and Restorative Justice Providers (e.g. community mediation centers, dispute resolution centers, private mediators). The coalition that was created is called the Missouri Restorative Justice Coalition. The director of the MORJI serves as the Chair of the Coalition.

Coalition Meetings

The Coalition had its first meeting in late March 2005, and has had four meetings to this point in time. The meetings are held in the state capital, which is located mid-state, and are six hours long. Members are reimbursed for travel and parking and lunch is served.

The first Coalition meeting was introductory in nature, but we formally adopted the goals of the Initiative to give us a focus. We invited a guest at that meeting, the Executive Director from the Missouri Sentencing Advisory Commission, which is chaired by a Supreme Court Justice. That Commission is promulgating recommendations for more alternative, community-based sentencing for low risk offenders, so aligning with the Commission seemed very important and strategic. The director of the MORJI also spoke at one

of the Advisory Commission's meetings.

The primary purpose of the second Coalition meeting was to provide for time for the Region Groups to meet (all members from the same region) to start doing regional planning. The hope was that Region Groups would then start to meet on their own in-between Coalition meetings. This is happening now in four of the five regions. We also had a media training to build skills around members seeking media coverage about the Coalition or its events. Some of the activities of the Region Groups include: events to commemorate International Restorative Justice Week, events to commemorate National Victims Rights Week, a newspaper series on restorative justice, and speaking engagements.

The third Coalition meeting was devoted to Interest Group meetings. The Coalition members were divided into the following Interest Groups in accordance with their affiliations: Adult Courts; Juvenile Justice; Corrections; Public Policy; Victim; Faith; and Providers. The Groups met to start planning for how to promote change in each of their substantive or interest group areas. Activities discussed were training and technical assistance, presentations at conferences, and development of model programs. The hope was that the Interest Groups would also meet on their own in-between Coalition meetings, although this may be difficult because members are from various geographic areas. Thus far, the Public Policy and Juvenile Justice Interest Groups have met by teleconference and we have joint meeting of those Groups scheduled for January. The Juvenile Justice Interest Group's primary focus is developing legislation that changes our Juvenile Code to make it more restorative. Among other activities, the Public Policy Interest Group is considering development of legislation that will authorize restorative justice practices in adult courts. The legislative proposals will

RJ in Missouri*continued from previous page*

serve as organizing tools for garnering support for restorative justice, in addition to giving the adult courts and juvenile justice personnel "permission" to engage in restorative justice practices

The fourth Coalition meeting was devoted to planning by Interest Groups and among Interest Groups. The Juvenile Justice and Public Policy Interest Groups primarily focused on the Juvenile Justice legislation and met with our legislative representative on the Coalition to flesh out the amendments, plan for garnering support from key stakeholders and sponsorship. The Restorative Justice Provider Group met to plan for an outreach campaign to general and specific publics, including the development of training modules of one, four, and eight hours in length. The one-hour will be an introduction to restorative justice, the four-hour will be skill building by communities to prepare them for restorative justice programming, and the eight hours will be training in order to institute programming. Thereafter, the Restorative Justice Provider Group met with the Corrections Interest Group to continue planning for the development of a Victim/Offender Dialogue Program in Missouri's prisons that would be facilitated by volunteer mediators from restorative justice programs in the state.

The plan for the next meeting is to give the Interests Groups a chance to meet because it is difficult for them to meet between Coalition meetings. We're especially interested in the Victim Interest Group meeting because they have several projects that need to be developed, including recruiting and training victims for Victim Impact Panels that the Department of Corrections is developing in prisons and through Probation & Parole throughout the state. After the Interest Groups have met, we will hold a training on how to do legislative advocacy and we will develop a plan for organizing the state around passage of the Juvenile Justice legislation.

Regional and Interest Groups

The other important piece in our development is that the Region Groups and Interest Groups recruit new members who will join the Groups, but not become Coalition members. This is im-

portant for the Region Groups because the Regions are large and it is important to get participation in all areas of the state in order to fully implement the Initiative. This is important for the Interest Groups because we need the right people at the table, both at the state level and regionally, to fully implement change in that interest group area.

One fortuitous, but not necessarily planned, consequence of implementing the Initiative is that it provided support and the impetus for individuals in systems to push for development of more restorative justice programming. For example, a director in Probation and Parole has convened a statewide Restorative Justice Committee whose members are joining with the Coalition Region Groups to promote more restorative justice programming in P & P in those Regions.

Statewide Activities

In addition to the Region and Interest Group work, the Coalition is engaging in state-wide activities. For example, we are planning a statewide Restorative Justice Conference for the fall of 2006 with the Community of Christ. The Community of Christ is a Christian denomination that is committed peace and economic justice. Every year they hold a Peace Colloquy and award someone a Peace Prize. Howard Zehr will be awarded the Peace Prize at this year's Colloquy focused on restorative justice. The opportunity for this conference arose because a member of the Coalition, who is in a leadership position in the Community of Christ, promoted the concept in her organization.

The researcher who was hired to track the progress of the Initiative developed a survey for stakeholders in order to obtain baseline data. This purpose of the research was to document the outcomes of the Initiative, and therefore, the survey questions focused on the following basic issues: whether stakeholders recognized the term restorative justice; were able to identify the benefits of restorative justice; and whether they preferred a restorative over a punitive approach. The survey had 100 questions related to knowledge of, and attitudes about, various types of justice and the premises underlying them.

The stakeholders surveyed were: judges, prosecutors, defense attor-

neys, victim advocates, corrections personnel, police, policy makers, school administrators, specific communities (religious congregations, community action organizations), and providers of restorative justice services. The baseline data indicated that the vast majority of those in some of the stakeholder categories (courts and corrections) had heard of restorative justice, while many in other categories had not. The most interesting outcome from the perspective of developing more restorative justice programming is that many stakeholder had heard of, and were open to, the concept of community justice. The researchers will be surveying stakeholders a year and a half into the project and at the end of the project to measure its impact.

Replication

For those who are interested in replicating the organizing and promotion work being done in Missouri around the concept of restorative justice, I would suggest that paid staff be hired. Volunteers have tried to organize around this issue for a long time, but really could not get very far. And, make sure the project is funded for a sufficient amount of time to actually be able to change opinions and impact systems. Another thing to keep in mind is that if anyone has already been doing restorative justice work, make sure you bring them into the fold early. This, like anything else, is an area where people can feel that upstarts are dismissing their previous work and contributions. Finally, cast a wide net in terms of your organizing work and your message so you do not exclude people and make enemies.

The biggest challenge to our work revolves around funding. Missouri, like many states, is facing a serious fiscal crisis. While instituting restorative justice programming will help alleviate this crisis and eventually we may see state resources shift to restorative programming, this cannot happen overnight. Developing sustainability for current and future programming until that shift occurs is the major obstacle. Frankly, we are nowhere near solving overcoming this problem.

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VOMA Explores Transition Options

As most of you know, VOMA is exploring merger and/or greater operational integration with some of its partners and colleagues. We hope all of you are as excited as we are about our transition plans. Based on your answers to surveys over the past year, the changing environment and external conditions that VOMA operates in, and board deliberations, we believe that the best strategy for the future involves opening up to greater collaboration and organizational change. While the work of collaboration is difficult and time-consuming, we believe it is the best way to strengthen the success of our missions and to meet the needs of our members while preserving long-term viability for our organizations.

During the VOMA conference in Philadelphia last fall, members had an opportunity to meet some of the leaders of the two organizations with whom we've been talking about a shared future. We've invited them to contribute to **VOMA Connections** and to speak for themselves about their organizations and the work that inspires them. The first of these articles will appear in the next issue of this newsletter.

In the meantime, we thought it would be helpful for you to hear why VOMA has selected these two organizations as the first step in building a broad-based and hopefully ever-growing coalition of community-based, restorative justice, and socially responsible conflict resolution, mediation, and peace-building individuals and organizations.

PRASI

Practitioners Research and Scholarship Institute (PRASI) is an international network formed to build a bridge between conflict resolution practitioners, research that informs their practice, and the institutions and discipline of writing and scholarship that can bring their work and experience into the literature of the field. PRASI is a network of about 700 people who find a connection to the mission of writing the diverse experience and practice of conflict resolution that occurs (pre-

dominantly) in communities of color. The context of culture/ethnicity, an environment of racism and oppression, and collective rather than individualistic definitions of harm and resolution are rich with understanding about how to bring peace and justice to those communities most affected by crime. VOMA is committed to full diversity as a part of its mission. A stronger partnership with PRASI brings the following to VOMA:

- A powerful network of individual conflict resolution practitioners who are committed to practice in the same communities that VOMA members want/ need to serve;
- Information about practice and practitioners who have experience and knowledge that can expand/inform practice models and the cultural and community contexts of our work;.
- A discipline and commitment to writing and publishing that VOMA has sought to expand;
- The experience of conflict resolution in communities of color often expresses the values of restorative justice more fully than might traditional conflict resolution/ADR;
- A network of 700 practitioners in a wide variety of settings; and
- Strong relationships with colleges and community groups we have been seeking to work with.

NAFCM

The National Association for Community Mediation is based in Washington D.C. and is committed to community mediation and the work of community-based mediation centers and processes. NAFCM works to strengthen relationships and build connections between people and groups (while preserving individual interests) through the creation of processes that make communities work for all. VOMA has worked cooperatively with NAFCM for several years regarding quality standards and practices for community organizations. In addition to individual members, NAFCM has 350 member organizations that are community me-

diation centers across the country. NAFCM member centers rely on volunteer mediators to mediate cases in a variety of settings, including small claims court, neighborhoods, schools, and juvenile court. Many NAFCM member centers have strong restorative justice and VOM components. In local communities, some NAFCM member centers have collaboratively merged with restorative justice and/or VORP programs. Networking among members, training, publications, research, and program development are

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some of the ways NAFCM supports its members. A stronger partnership with NAFCM brings the following to VOMA:

- Greater administrative efficiencies if office functions and some member programs are integrated;
- Relationships with government and public policy representatives based in Washington with whom VOMA wants to work more closely;
- A complement to VOMA's focus on individual practitioners with a focus on the community context and organizations within which many VOMA members practice;
- An existing publishing vehicle and clearinghouse of resources;
- Products such as the quality self-assessment process for centers that would enrich the quality of VOMA members;
- Shared values and commitments to work within community context,

VOMA Transition*continued from previous page*

consensus decision making, and volunteer mediators; and

- A well-established network of 350 community mediation centers.

VOMA has also made contact with other national and regional RJ groups, has been working in a seven-member coalition of peace and justice organizations, and continues to be open to growing depth in our relationships with other organizations. We are working directly with a few of them on co-sponsorship of conferences (something we've also done in the past), reaching out to new groups such as community corrections/probation professions, and other groups who have trainers our members could use. However, we believed that the three party union of VOMA, PRASI, and NAFCM would form a very strong base for future growth and a vision that would be compelling and enriching for everyone.

Our conversations have been informative, challenging, and rewarding. The process of getting to know each other, understanding the differences as well as the similarities, and getting to something concrete that could be acted upon by our members and boards is ongoing. VOMA members who have gone through merger/transition have advised us to take care, go slowly, and make sure that the important things were surfaced and addressed. It has been good advice.

Subsequent to a three-day meeting of six members from each group in Washington, DC in late August, each group has named four people to a negotiating team. We have been having weekly telephone conference calls in November and December and are committed to have something to offer in terms of a model for a new organization and/or concrete ways to integrate some of our functions or sub-

agreements between two of the three organizations on a variety of things. However, none of us is sure about what the final decisions will be.

Each organization is facing both short-term financial need given the closing of the Hewlett Foundation Conflict program (which was the primary source of funding for all three organizations) and the need to do long term strategic thinking. Each board/leadership council must act in the best interest of its organizations and at the same time hold open the possibility of changing their organizations to better serve their missions. So far, we have agreed to explore shared fund raising resources, a combined journal and newsletter, some fiscal/administrative consolidations, and processes to keep us all at the table.

We welcome your input and energy. We'll need your patience and care as we go forward.

Conference Report**Restorative Justice: Imagining the Possibilities**

This past September, VOMA hosted its 21st Annual International Training Institute and Conference in Philadelphia. The format this year included a collaborative pre-conference "Call to Action," a three-day training institute and a three-day conference with plenary sessions and concurrent workshops.

The pre-conference "Call to Action" was a day-long session focused on self-reflection, dialogue and development of strategies to validate and advance social justice and socially responsible, culturally enabled practice in the fields of conflict resolution, mediation and peacemaking. The session was a collaborative project of Creative Response to Conflict (CRC), Fellowship of Reconciliation (FOR), National Association for Community Mediation (NAFCM), National Coalition for Dialogue and Deliberation (NCDD), PeaceWeb (formerly NCPDR), Practitioners Research and Scholarship Institute (PRASI) and VOMA. Nearly 60 people attended and participated in

small and large group discussions that generated ideas and strategies for policy change, best practices, organizational change and development, and power sharing. Proceedings of the session are being prepared and will be made accessible to anyone who is interested.

Approximately 201 persons attended the training institute and conference, including 65 presenters, 14 scholarship recipients, and the VOMA board and staff. There was a rich set of learning options for participants to choose from - 11 trainings and 36 workshops. Conference evaluations indicated that attendees were very satisfied with the training institute and conference and they had several ideas for improving our next conference. Among the suggestions were: creating venues for special interest groups to meet and share information and experiences, being more explicit about workshop content and level in the brochure descriptions, and providing more time for networking. The confer-

ence committee will take these and other suggestions into consideration when planning for the next conference gets underway.

The Silent Auction, chaired by board member Andrea Verswijver, generated nearly \$1,400. These donations will be used to support membership services and activities. Sales from books, videos, and other materials generated nearly \$1,000 in income, which was used to offset conference expenses.

The VOMA board wishes to acknowledge and thank the board conference committee: Andrea Verswijver, chair and Jane Reise for providing guidance and direction; Lorraine Stutzman Amstutz and Jen Linder of the Menonite Central Committee for conference planning, coordination and administrative support; the Pennsylvania Host Committee; and Barbara Raye and Doreene Langason of the Center for Policy, Planning, and Performance for providing executive and general administrative support.

Kenyan Perspective

The Concept of Restorative Justice in African Traditional Heritage

by Doreen Jemutai Ruto

Most traditional African communities had elaborate models of dealing with conflict and ensuring that there was harmony and peaceful coexistence among themselves and their neighbors. The concept of justice was elaborate and clearly defined, depending on the value systems of the group. The systems ensured that community and individual interests were propagated and efficient redress mechanisms were also in place in case individual needs were not adequately met. Therefore, it was uncommon to find the members who felt cheated by the justice system.

For the Kalenjin group in Kenya, for instance, the individual belonged to a particular household, then an extended family, a lineage or age group, then a clan, which formed a kinship. His rights, duties, responsibilities and obligations went hand in hand with those of his peers in terms of, skills, age and gender. These cross-cutting relations were very important in shaping the individual's identity and it is what also formed the framework in which his rights and duties were defined and articulated.

The kinship system, therefore, ensured that an offender or the victim was not left alone when a wrong was done; rather, it was a system that ensured personal, social, economic, marital and political issues were raised and tracked within the wider community with all the parties represented. These indigenous institutions enabled members of the communities to talk about the harm done by the crime and to seek solutions that would lead to peaceful co-existence.

Traditional judicial systems were derived from traditional customs, practices and beliefs of a community. Members of the community and the parties were collective stakeholders to the system. In most cases, emphasis from individual incidents shifted from individual gain to the common good.

Any wrongdoing, therefore, was seen from a wider perspective and the justice delivery system ensured that, at the end of a dispute resolution, rituals were performed to bring about reconciliation and both parties walked away as friends. For

instance, a victim may not want the state imprisoning the son of a neighbor he has seen growing up just because he stole his cow. He would rather have the clan of the offender give him another cow instead of drawn out court battles that destroy enduring social relationships.

The techniques for reparations were effective because they derived authority from existing structures such as the family, the clan and the community. Reparations were also agreed upon by both the parties and in most cases were defined according to the extent of the damage or harm that had been caused. In some cases, there were fixed fines that every offender was subjected to depending on the wrong committed. The offender and his community therefore paid the fines and the individual was required to plough back into his community by not re-offending for fear of being ostracized. On the other hand, for more serious crime, re-offending would be prevented through an oath-taking ceremony that ensured everyone who took part in the justice process stayed committed to his or her part of the agreement. Consequently, most community systems relied on trust and respect since they lacked the legal mechanisms to enforce rulings. However, most of the community members would respect and abide by the ruling.

The elders who presided over these sessions were regarded to be more conversant with the status of individuals in the community and were said to be fair especially if they are witnesses to the disputes as is normally the case. A case of conflict of interest did not arise here because all affected parties accept the judgment passed. Community systems are therefore considered to be effective in civil cases like marriage, land disputes and debts this can help reduce the backlog in formal courts. In domestic disputes, it is believed by both the victim and offenders that subjecting family matters to a formal court system tends to separate other than bring the families together.

The concept of restorative justice therefore, relates to a large extent to my own cultural heritage but unfortunately, there exists a vacuum in the present systems due to the gaps left open by the western

legal system. For instance, when a wrong was done, it was very necessary that measures were taken to restore the community into the normal functioning order. It did not matter how many generations it took as long as the word of mouth was still considered as truth. In this case, it was essential that the truth be told, as it is, whether the victims or offenders were still alive or long dead. Modern legal systems would throw this out of court and refer to them as "hearsay."

Consequently, restorative justice may not necessarily connect with this cultural heritage because at the moment, the definition of the community has expanded to include the other tribes, and the state. In African urban centers for instance, the concept of the community is much disintegrated and therefore not as binding for the individual as it was before. Issues of kinship and individual identity within the larger group no longer bind the individual to the customs and beliefs of the people.

The current trend towards individualism within the wider collective community, especially in urban areas is therefore a threat to the African restorative justice process due to competing individual needs over and above communal needs. The fact that, in cultural justice, the community took responsibility over the harm done for fear of consequences from the spiritual does not seem to hold water in cross cutting relationships that exist among the educated and urbanites.

The forefathers and the extended family that were believed to be a part of the stakeholders group no longer have room for exclusivity when a wrong is done, but instead individuals would rather resort to court systems to undo the wrong. In this case, the conscience of the people has been diluted and is no longer a powerful tool in ensuring that justice is done.

It is therefore unfortunate that these systems have been disregarded by modern legal systems. Yet, the traditional practices may as well be what we are looking for in an attempt to redefine the

Justice That Heals and Transforms

by Jarem Sawatsky

The Western conception and practice of justice have convinced most of its subjects that justice is about determining guilt and dishing out pain. Yet there are many traditional communities who remember a very different vision of justice. These communities remember a justice that is more about healing than harming, more about respect than shame, more about building up than ripping apart. These are visions of healing justice. Healing for traditional communities is not understood within the conception of the individual but within the framework of the whole community, the land and sometimes even the spirit world. This healing justice creates transformative spaces for change, for the victim, the offender, the local community of origin and the wider community in which the local community is situated.

This series of articles tries to illustrate some of the ways the emerging fields of peacebuilding - conflict resolution, restorative justice, alternative dispute resolution and conflict transformation - present both barriers and opportunities for those seeking to redefine unjust relationships between people, within systems, and within the physical and spiritual worlds. This article presents three positive guideposts to help steer clear of barriers and maximize the benefits. The guideposts in this article aim to create space for a particular kind of healing justice. It is offered as a gift to a dialogue already underway.

Restorative Justice Practice That Redefines Unjust Relationships Must Be A Principled-Ad Hoc Approach Not A Structured, Institutionalized Approach

When the Australian police force in Wagga Wagga borrowed Family Group Conferencing (FGC) from New Zealand, they modified it from a flexible principled approach into a structured, scripted approach. The New Zealand Family Group Conferencing principles were developed to respond to institutional racism against Maori people by

mandating responses to youth crime (*Ed. Note: and child protective services*) that were more in tune with traditional principles. What the New Zealand model tried to write out of the justice system, the Australian model wrote back in - foreign, authority-

Focusing on disputes tends to be a way of narrowing the lens to those symptoms that seem to be boiling up at the moment. An approach that "resolves disputes" tends to see conflicts as issues.

based administrators of justice (police/judge); following a preset process that isn't rooted in culture (Australian script and avoidance of cultural supports like prayer); being structure-based rather than being a principled frame of reference within which the youth justice worker must design a process suitable to all involved in the harm.

The story of Family Group Conferencing is just one story of how the justice system tends to favor structured, institutionalized approaches. In fact, the current evaluation of New Zealand's principled frame of reference approach is that it has become too institutionalized. When creative approaches, and therefore ad hoc approaches, come along and gain momentum, the state has a tendency to institutionalize it, killing its spirit and using it for its own purposes.

When restorative justice practice is institutionalized, it ceases to be life-

giving or healing. When peacebuilding practice is institutionalized and then taken back to indigenous people, it ceases to serve the needs of the people but becomes a mechanism of coercion and co-optation. It becomes a system of state control rather than a peoples liberation movement.

If restorative justice is to help redefine unjust relationships it must be rooted in clear principles rather than processes. Clarity of principles will aid in taking the virtues of a restorative justice approach into new situations and designing a local justice experience. In New Zealand, the Maori were very clear that what they were trying to change was institutional racism. They developed a wonderful document, entitled **Puao-te-ata-tu** (Day Break) that sets out the depths of the problems, but also depths of resources in the form of stories and guiding principles for engagement. For some reason, in New Zealand, the government choose to take this document seriously and completely re-wrote and reorganized part of their legal system. The Maori knew that this success might also be the seed of failure. They knew that that the process of imposing their vision would mean that important parts of their vision would get lost. Therefore, they set up various monitoring groups that examined processes and outcomes against these traditional principles.

Restorative Justice Practice That Redefines Unjust Relationships Must Be Relationship-Oriented Not Dispute-Oriented

Alternative Dispute Resolution, was originally conceived as a corrective to the western justice system. However both the terms "dispute" and "resolution" should raise yellow flags for people interested in liberating justice movements. Focusing on disputes tends to be a way of narrowing the lens to those symptoms that seem to be boiling up at the moment. An ap-

Justice that Heals
continued from previous page

proach that “resolves disputes” tends to see conflicts as issues. It tends to look at the issue at stake and try to find a compromise or a win/win solution. An issue-orientation hides the fact that real people are involved by focusing on symptoms rather than people. When we fight an issue (e.g., the war on crime, the war on terrorism) we lose sight of the fact that we are dealing with real people who have real needs. This issue/dispute-orientation then actually serves as a way of distancing us from “the other.” Distance from the other allows further violence and abuse. The neglect of “the other” completes the vicious cycle of violence thus creating more, not less, issues/disputes (e.g., The War on Crime creates more crime. The War on Terrorism creates more terrorism).

The issue-dispute orientation also tends to focus on solutions to end conflict (resolution) rather than transformative ways to use conflict for social change. Many interested in redefining unjust relationships are not looking narrowly to have a list of issues resolved but rather are trying to radically change the character of relationships within and between various communities.

Becoming relationship-oriented widens the lens and comes closer to the nature of justice. Justice is not about being without issues or disputes. In fact, justice for indigenous communities will raise issues and conflicts that cannot be resolved and put away. Forgiveness, restitution and even healing for a particular set of relationships does not mean the wider system is off the hook. Without a radical reordering of relationships, there can never be justice. Justice is about living in right relationship – with creation, with people, with Creator. Justice that tries to resolve issues without changing the underlying relationships is not justice at all.

Such a relationship-orientation towards justice recognizes the need not just to acknowledge harms but to return to that point in history where a peoples’ story was radically disputed and altered, and to renegotiate history, re-

discover identity, to go back to figure out the way forward.

Restorative Justice Practice That Redefines Unjust Relationships Is Spiritual, Not Amoral

Within the mainstream of the conflict resolution and peacebuilding literature, little attention has been given to the role of wisdom, creation, spirit or ceremony in the response to conflict. While being excited about envisioning the long-term future, the field has largely forgotten the wealth of resources from those oriented on the ancestors and on creation. Too often the past is seen as the problem and the future is seen as the solution. Too often restorative justice practice avoids things spiritual in preference for things that are process oriented. This dualistic approach of separating the process from the spiritual often divorces healing activity from the healing roots.

Many faith and indigenous communities tend to see life differently. All of life and land are seen to be infused with spirit. Traditionally rituals of respect, sharing and thanksgiving are all

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apart of daily living. This more spiritual orientation is one the restorative justice field is only beginning to understand.

Compared to the traditional, collective, ceremonial ways of dealing with conflict, conflict resolution processes are

stale and cold. Liberating restorative justice practice will be rooted in this spirit-filled orientation to life. This does not mean adding some cultural-spiritual activity at the start and end of a mainstream conflict resolution approach. The spirit-filled orientation is a holistic one, one which cannot be stuck into little boxes and put in their appropriate place. It is a way of life.

The Wet’suwet’en *Unlocking Aboriginal Justice Program* in British Columbia, Canada is just one example of programs that report that the turning point for many of their participants was when they were “out on the land” (wilderness camping) with an elder. In the midst of the wilderness, the traditions and the elders, people rediscover who they are.

Liberating restorative justice practice is not an amoral or neutral activity. It is a way of returning to the teachings and learning how to survive in the world made by the Creator.

If justice is really about healing and transforming all the way to the roots, those involved in it cannot rely on imposed foreign solutions. Healing justice takes root in the context and in relationships. Liberating peacebuilding practice will help to sustain a moral creativity of an ad hoc nature by being in the present moment in such a way that they the fullness of the vision of healing justice is alive in every step. This will both nurture a positive justice while at the same time dismantle systems of violence and injustice.

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Resources

New Resources for the Practice of Restorative Justice

by Russ Immarigeon

Child Welfare & FGCs

When Family Group Conferences were first introduced in New Zealand, it is important to note that they were intended to cover both juvenile justice and child protective services. Subsequently, some careful evaluation work was done on the use of FGCs in New Zealand, and some research has also been done in the United Kingdom. However, insufficient attention is the general fate of most efforts at using FGCs in child welfare cases, not just here in the United States, but also internationally. Luckily, in **Widening the Circle: The Practice and Evaluation of Family Group Conferencing with Children, Youths, and Their Families** (NASW Press, 2005, \$49.99, 262 pages), Joan Pennell and Gary Anderson, social welfare researchers focusing on their experiences with the use of FGCs in North Carolina, New York City and Michigan, have fashioned a valuable volume that focuses intently on this important, and instructive, practice.

The aim of **Widening the Circle** is to examine "how principles of FGS orient the intervention and its evaluation and how they promote the three pathways to safeguarding children, youth, and their families – family leadership, cultural safety, and community partnerships." The book's content is divided into four parts:

- *Conferencing*. Editors Pennell and Anderson contribute three articles that examine pre-conference promotion of family leadership, conference-based advancement of cultural safety, and the post-conference maintenance of community partnerships;
- *Initiating and Sustaining Conferencing*. Pennell and Anderson describe collaborative planning, ongoing training, and supportive legislation and policies that enable and support the use of conferencing;
- *Evaluating Conferencing*. The editors and other researchers, includ-

ing Carol Harper of the American Humane Association, assess model fidelity, short- and long-term outcomes, and the costs and benefits of family group conferencing; and

- *Reshaping Child Welfare*. The editors, along with Lisa Merkel-Holguin of the American Humane Association and Gale Burford of the University of Vermont, reflect on different approaches to involving families in conferencing practices, comparisons and connections between youth justice and child welfare systems, the safety of mothers and children who participate in conferencing activities, and the contributions and challenges of family group conferencing to child welfare practice and policy.

Copies are available from the NASW Press, 750 First St., N.E., Suite 700, Washington, DC 20002-4241, (800) 638-8799; (website) www.naswpress.org/orderform.html.

Little Book Series

For the past few years, a Pennsylvania-based publisher has been quietly issuing a very nice and useful series of restorative justice-related books, The inaugural volume in the Little Books of Justice and Peacemaking series was Howard Zehr's **The Little Book of Restorative Justice** (2002). Subsequent volumes have included John Paul Lederach's **The Little Book of Conflict Resolution** (2003), Allan MacRae and Howard Zehr's **The Little Book of Family Group Conferences** (2004), Lisa Schirch's **The Little Book of Strategic Peacemaking** (2004), and Jayne Seminare Docherty's **The Little Book of Strategic Negotiation** (2004). The most recent volumes are Kay Pranis' **The Little Book of Circle Processes** (2005), Lorraine Stutzman Amstutz and Judy H. Mullet's **The Little Book of Restorative Discipline for Schools** (2005), Chris Marshall's **The Little Book of Biblical Justice** (2005) and Howard Zehr's **The Little Book of Contemplative Photography** (2005), wherein the series founder applies restorative justice practice to the art of photography. Or is it the

other way around? In any case, future volumes in the series will address trauma healing, prison-based restorative justice, and other topics. Each volume is – not surprisingly – succinct and – pleasantly – inexpensive, costing \$4.95 per volume, with discounted rates for orders in bulk. Besides giving readers a fast grip on these diverse topics, the little books are also excellent resources for classroom teaching and training workshops. Copies are available from Good Books, 3510 Old Philadelphia Turnpike, PO Box 419, Intercourse, PA 17534-0419, (800) 768-7171.

Clergy Sex Abuse

Independent Academic Research Studies (www.iars.org.uk) is an international research group examining the use of restorative justice in response to such matters as child abuse and clergy sexual abuse. In the December 2005 issue of **Contemporary Justice Review**. Theo Gavrielides and Dale Coker contribute an informative article, "Restoring Faith: Resolving the Roman Catholic Church's Sexual Scandals Through Restorative Justice," that reports on recent efforts, in the context of some notorious cases, to use restorative justice in addressing sexual abuse. The authors posit that church-based responses to clergy sexual abuse have gone through three stages: denial, involvement with traditional criminal justice processing (including compensatory sanctioning), and, most recently, restorative justice. They describe notable cases and provide a timeline/ chronology of North American clergy sexual abuse cases. They conclude, "Restorative justice's rootedness in theology and the Christian themes of forgiveness and reconciliation should make it particularly attractive to a Church craving reunion with its followers and a higher moral road not offered by the traditional criminal justice system." Subscriptions (\$68 for four issues a year) are available from Taylor & Francis, Journals Dept., 325 Chestnut Ave., 8th Fl., Philadelphia, PA 19106,

Reflection

Restorative Justice Roots in Indian Popular Culture and Gandhian Philosophy

by Rina Kashyap

My engagement with the concept of restorative justice has entailed on occasions a sense of déjà vu and renewing of acquaintance with a friend long forgotten. At times it is the “aha!” feeling, the lifting of the veil that reveals a concealment I did not know existed. This paradoxical state is not a surprise because I come from a land about which “if you say one thing, the opposite is also true.” This aphorism probably emerged because the young nation-state of India is one of the oldest civilizations. Indian culture is multicultural, multireligious, and multilingual, a reservoir of multiple traditions. In India, there is also a practical quotidian existence of tradition(s) and modernity (see Ramanujan, 1989).

The complexity and richness of Indian culture makes it an appropriate context to be quarried for concepts including that of restorative justice. But before attempting to do so, I will very briefly gesture towards those traditions and practices that are antithetical to the ethos of restorative justice. They are:

- The caste system in which rituals of “purity and pollution” serve to legitimize unjust practices;
- 80% of India’s population lives in villages that are marked by a hierarchical feudal structure and obedience to authority makes dialogue impossible;
- Barring some periods in ancient history, Indian society has been by and large patriarchal. Women victims of dowry, rape, domestic abuse, and sexual harassment do not have the requisite support structures in the legal and social systems; and
- The deliberate and convenient misinterpretation of the *Karma* philosophy by the upper caste/class. The poor and the exploited are made to believe that their misery is destined. It is a result of their past (including their previous birth) deeds. And just in case they have been unjustly wronged, God

will *take care* of the offender. In this process, victim needs remain unaddressed, while offenders do not even believe and therefore do not acknowledge their wrongdoing.

This context encourages passivity and fatalism. The framework in which the issue of wrongdoing is discussed has a pre-scripted bias toward the powerful. Therefore, when the logic of political democracy gives to the victims a space for articulation of grievance, they ask for punishment of offenders. The demand is for justice not peace. From this perspective restorative justice is seen as absolving the offender of all guilt.

My motive for identifying links between restorative justice and my heritage is only partly scholarly and academic. The criminal justice system in India is afflicted with the ills similar to those that plague its counterpart in the United States. There is an urgent need for an alternative system of justice.

Two Myths

Two myths from Indian popular culture often serve as moral and ethical touchstones. They raise concerns and questions about wrongdoing, victims, and offenders. I conclude with Mohandas Karamchand Gandhi, who changed the lenses through which issues of justice were hitherto examined by his contemporaries. Most significantly, he made his radical ideas work despite the structural limitations of the Indian society. Gandhi turned for inspiration to religion. It is interesting to note that he referenced not just Hinduism, Jainism but also the Christian and Judaic traditions.

Popular Culture

One of the key components of restorative justice is the belief in transformation of individuals (who may be offenders). A former bandit who came to be a much-revered saint authored the Hindu epic, *Ramayan*. The other celebrated epic, *Mahabharat*, demonstrates the

futility of revenge and punishment as tools of justice. It reveals that such an approach (even though it is projected as battle between good and evil) creates an unending cycle of violence, where individuals and communities are forced to take on roles, now of the victim, now of the offender. One of the protagonists, Karan, is a gifted warrior, a generous man who does not refuse donations to anyone, including an enemy, who comes to his doorstep. He, however, is on the side of evil. At this point, the epic raises, though not resolve, the question, “Is it the individual (Karan) or the structure (caste system) that is the offender?” A recent interpretation of the epic was made by Badrinath Chaturvedi, who points to the very late realization of the victim, Draupadi, that in her dogged pursuit of revenge, she became oblivious to all the love that her family and friends showered on her. What is significant here is the fact that the needs of the victim are neglected by both the victim and her well-wishers, even as the latter continue to love her.

This reflection should not be taken as an advocacy of forgiveness and forgetting or the absolving of the responsibility of wrongdoing. It only points to the inappropriateness of the tools adopted to deal with wrongdoing. Howard Zehr argues that retribution and restoration are not necessarily polar opposites. Retributive elements may be present in restorative justice (Zehr, 2002, p. 72). He observes, “Retributive theory believes that pain will vindicate, but in practice that is often counterproductive for both victim and offender.” (Zehr, 2002, p. 59)

Gandhian Philosophy

Mohandas Karamchand Gandhi’s philosophy and praxis of non-violence has several biases toward the concept of restorative justice. One of his most radical ideas was to shift (not delete) the emphasis from individual offenders to the structures that make offenses

RJ in Indian Culture*continued from previous page*

possible. Exploitation of India was not the handiwork of a few evil-intentioned Englishmen. It was inherent in the logic of modern civilization, of capitalism, and of colonialism. The issues of shame and humiliation, which often create a cycle of violence, were of great concern to him. Colonialism had ingrained a deep sense of shame among Indians about their culture, beliefs, and values. Gandhi sought to restore dignity to the "victim." For example, he chose to wear the *khadi dhoti* and shawl worn by the peasants in India. It was in this sartorial style that the "half naked fakir" (to reference Winston Churchill's derisive term) met the British Monarch. As he walked into the Buckingham Palace, along with him, metaphorically speaking, walked the poor peasants of India. The victim was empowered (empowerment being a key feature of restorative justice).

When Gandhi spoke of *swadeshi*, it was not just the advocacy of "be Indian, buy Indian." There was a much deeper point that he was making - respect your environment, take its ownership (see Ross, 1996, p.125). In this way, he sought to shake people out of their apathy and become self-reliant. Another example of self-empowerment.

Howard Zehr has also suggested that we keep aside the misgivings, and instead identify the immediate community of the victim and the offender. Gandhi resolved the question of the appropriate relationship between the individual, community and the nation state. He put forward his theory of an "ever-expanding concentric oceanic circles." Individuals are in the center and at the starting point (so their concerns are not neglected) but simultaneously they are reminded about the embedded context and responsibility toward the community. The concentric circles ensure local self-governance and prevent concentration of power. Some of these ideas have informed contemporary *panchayati raj* structures (local self-governance at the village and district levels) in India.

Gandhi did not hesitate to speak against unjust practices in which Indians themselves were the offenders e.g. the caste system. Unlike the Dalit

(lower caste member) leader, B.R. Ambedkar, he jettisoned the confrontationalist approach (Gandhi instead employed the term *harijan*, i.e., people of God). Gandhi viewed this as divisive politics. He wanted the upper castes to introspect and realize that this was an unjust practice. It is pertinent to point out here how Gandhi subverted the purity-pollution boundaries by personally cleaning toilets, a task hitherto reserved for the lower castes.

Gandhi's emphasis on compassion did not dilute his emphasis on offender responsibility. The following example serves to illustrate this: Gandhi was visiting West Bengal to stop the widespread killing and looting that had followed partition of India. He was also making efforts to re-establish faith and trust between the Hindu and Muslim communities. While speaking to a gathering in one village, a Hindu man came and confessed that he had killed a Muslim child. Unable to live with the guilt, he pleaded to be punished. Gandhi told him to find an orphan Muslim child and to bring him up as his own. He also made the man promise that the child will be brought up as a Muslim. For Gandhi punishment was not a solution.

India prides itself as a multi-cultural society. A culture that celebrates differences is potentially (and if I am allowed to be immodest), naturally home to the idea of restorative justice because it has eyes that have multiple lenses.

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Resources*continued from page 10*

(215) 625-8900, (website) www.tandf.co.uk/journals.

Cultural Context

According to Chicago-based author Liang Ho, "Cultural filters have a profound impact on how people give and receive messages above and beyond basic language differences." In her book, **Cross-Cultural Swinging: A Handbook for Self-Awareness and Multi-Cultural Living** (Pacific Asia Press, 1996), Ho centers her thoughts around 12 major themes, including cross-cultural terms and principles, cross-cultural communication and problem-solving, cultural identity and mental health, cultural power, and a cultural continuum. This workbook is concisely written and contains activity pages to assist in the application of specific concepts. Copies can be obtained for \$20.00, plus \$3.50 S&H, from Liang Ho, 5529-1/2 N. Kenmore, #2A, Chicago, IL 60640, (773) 728-8642, (e-mail) gnailus@yahoo.com.

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VOMA Connections is interested in publishing articles that describe, evaluate or reassess restorative justice practices for various sorts of cases in different national and international jurisdictions. Often times practitioners are isolated from one another, and articles are one way of communicated what works, what does not work, and what may be done to make things work. Please send program information, program evaluations and so forth to:

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Judges & Restorative Justice

Working with Judges to Affect Change in the Criminal Justice System

by William T. Preston and Greg D. Richardson

Judges play an important role in our criminal justice process and in our understanding of justice.

Criminal court judges make initial decisions about cases when someone is arrested. They set bail and conditions of pretrial release. Judges rule on pretrial motions that shape criminal cases before trial. In some criminal trials, judges rule on the facts and the law. In trials before a jury, to which accused people have the right, judges rule on the law and instruct jury members on their responsibilities. In most cases (i.e., those which are resolved through negotiation rather than by trial), judges must approve the agreement and accept the resulting plea. Judges impose sentences when people are convicted, although their decisions may be limited by statutes, sentencing guidelines, or jury decisions. Appellate court judges may review any aspect of a criminal case. Judges are the primary managers of our criminal justice process.

In many states, judges administer significant parts of the criminal justice system. They oversee probation and other programs, and recommend policy directions for state courts. Many local judges are members of the boards of community-based agencies that provide services to the courts.

Judges are in an excellent position to grasp the challenges and weaknesses in our traditional approach to criminal justice. They experience the practical effects of increasingly politicized sentencing policies, prison crowding, and the "revolving door" effect on correctional systems. They can see that our expensive efforts to punish people do not seem to hold people accountable in ways that break the cycle of crime; too often the same defendants continue to appear in their courtrooms. Many judges hear the pain and frustration of crime victims and the community, and recognize that our approach to crime and justice does not meet their needs.

Ironically, judges are also uniquely responsible for the way the system works. Many of them have a vested interest in focusing our court procedures on rules, sometimes at the expense of underlying principles and opportunities to address the harms caused by crime. For example, anyone who has ever been in a criminal court, or seen one on television, knows that the judge is the center of attention. Every seat in the courtroom faces the judge. The judge wears a special robe and sits behind a special desk, often on a raised platform.

Judges also serve to reinforce and require a high level of ritual and formality, and following proper procedure, in the court process. Judges are responsible for maintaining the focus of the trial remains determining whether or not the government can prove that a person accused of a crime is guilty, and following the rules of evidence.

These can become barriers to the people most affected by crime.

Advocates of a restorative approach are often intimidated by judges. That intimidation can lead them to confront judges with the weaknesses of the traditional criminal justice process, or present restorative justice concepts in language to which it is difficult for judges to relate, or avoid talking to judges at all. These approaches are not effective, and can create barriers that alienate judges from restorative justice, because they are not based in an understanding and appreciation for the roles and responsibilities judges have in our traditional court process.

Bruce Kittle, formerly of the Restorative Justice Project at the University of Wisconsin Law School, gives us practical ideas about introducing restorative justice to judges.

- No one judge is the same as another. Meet individually because the principles of restorative justice will most likely appeal to the

judge's personal feelings and beliefs. Restorative justice is more likely to strike a nerve with them that way, particularly with some story telling. Try to get a sense from them as to what is important to them from a justice perspective.

Remember, if they do not think there is anything that can be improved, it will be hard to make your case (and do not start out by telling them what an awful job the courts are doing).

- Explain how restorative justice will affect judges and what exactly you would like them to do. Be specific about what will be expected from them, how much time, what kind of meetings, how will it impact their court procedures, and probably most important of all, how will it change the way they sentence people and why.
- Make it clear that restorative justice is a set of principles upon which a variety of services and programs can be developed to serve crime victims, the community, offenders, and the government. Help them understand that it will actually provide more tools to the court and help them do more from the bench than they already are -- not by working harder, but by getting to what is really going on in a case and developing restorative responses that really matter and assist those involved.
- Talk about tangible examples of successful restorative justice efforts that have involved the courts. Explain how they work, what individuals are involved and how, how the court was involved, and why these responses are "restorative" -- connect the examples directly to underlying restorative justice principles.
- Talk about what other agencies in your area are already involved and/or how they can be involved -- the district attorney, victim/witness coordinator, juvenile services, pri-

Paradoxes*continued from front page*

event. Thus, restorative justice was touted as a future-directed, problem-solving alternative to criminal justice that required the active participation of victims, communities and offenders to bring about peace.

Yet, if such a critique defined restorative justice as thoroughly different from criminal justice in virtually all of its facets – values, practices, outcomes – then on what grounds could restorative justice be deployed within, and as a complement to, existing criminal justice institutions? The problem is that either one takes the hard-hitting critique seriously, or gives up trying to find an *bona fide* alternative by making practical accommodations to criminal justice practices. And if one does the latter, then the founding critical bases of restorative justice crumble; with this go claims to provide a conceptual and practical alternative that can rightfully claim to be independent of criminal justice's retributive values and adversarial processes.

How Fundamental is this Paradox to Restorative Justice Discourses?

In my book I argue that this paradox is surprisingly deeply rooted, emerging through at least four foundational themes. First, restorative values are starkly contrasted with retributive criminal justice approaches to crime. For instance, restorative justice is said to focus exclusively on the harms generated by crime and to redress the needs it produces within victims, communities and offenders. It does not, that is, emphasize legal processes directed at establishing the offender's guilt, or working out appropriate punishment to appease the interests of a state.

Yet, despite very isolated (and general) attempts at redefinition, none of which are seriously entertained, proponents of restorative justice tend to premise their concepts and practices on legal definitions of *crime*. They may focus on harm, but these are the harms that follow from a *legally defined crime*. By so relying on criminal law's definitions of crime, restorative justice effectively predicates itself on the very system and approach to justice that its hard-

hitting critiques were meant to challenge.

A related paradoxical logic plays itself out with respect to the key actors of restorative justice: victims, offenders and community. Here the arguments get somewhat more complex, and I have tried to detail the nuances in my book. However, in broad outline, these concepts are evoked to emphasize the active participation required of victims, communities and offenders in order attend restoratively to the harms of crime. However, for the most part, criminal justice definitions of these identities are assumed: the victim and offender are thought of as individuals – either one on the receiving end of, or who commits, a crime. The community, even though without a tangible or agreed-upon definition, is for most proponents and programs implicitly envisaged as forming around a given criminal event (a "community" of crime victims, offenders and their families). In all these instances, restorative justice practice predicates itself on definitions and identities that are either the mainstay of criminal justice (victims and offenders) or collective descendants thereof.

What does this mean for Alternative Considerations of Justice?

The implications of paradoxically assuming foundational concepts of the very approach one seeks to challenge are diverse. For one thing, it drastically constrains thinking about alternative visions of justice. Stated differently, by assuming foundational concepts of criminal justice (crime, victim, offender, or a crime-dependent view of community), one is not able easily to consider possibilities of justice beyond these. As long as one predicates restorative justice on legal formulations of crime, for example, it is difficult seriously entertain justice without crime, or indeed, as Jerold Auerbach put it, **Justice without Law** (Oxford University Press, 1983). It also makes it difficult to consider the possibility that some legal definitions of crime are harmful in and of themselves (one thinks, say, of several Apartheid criminal laws).

Moreover, in some cases (not in all) it may be counter-productive to encour-

age people to embrace individual victim identities as a condition of participating in restorative justice programs, remembering that the victim is by definition a sacrificial disempowered social position. This may flag the problem of what sort of "empowerment" one might reasonably expect from an essentially disempowered identity; it also suggests that questions of justice may involve political considerations of how to change broader social structures that help to sustain patterns of victimization. Similarly, emphasizing the responsibilities of individual offenders may well be appropriate, but ought justice not also to consider the question of what sort of collective entities help to produce offenders? By centering its practices on a legally defined offender as a bearer of harm, restorative justice is not well positioned to contemplate such a question.

Such examples allude to the ways in which restorative justice's paradoxical rejection and acceptance of key concepts in criminal justice constrains its early promise to offer an alternative approach, a new "lens" and practice, through which to seek justice. Yet for all that, I think at least pointing to the paradox helps us understand that we are products of a time, and that we (specifically) are in large measure shaped by widely purveyed cultural assumptions about crime, victims, offender and community. It helps us think about the enormity of the challenge involved in considering alternative forms of justice; but it also helps us grasp the crucial significance of never allowing ourselves to imagine that our historically situated endeavors will ever rid themselves of paradox, especially when pursuing a more or less infinite promise like justice.

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Book Review

International Perspectives on Restorative Justice

review by Russ Immarigeon

Handbook of Restorative Justice: A Global perspective

Edited by Dennis Sullivan and Larry L. Tift

Routledge

\$170.00, 600 pages (2006)

Some things about restorative justice can be said with certainty. If nothing else, for instance, restorative justice involves worldwide efforts to establish new methods and contexts for identifying and addressing pre-existent or emerging harms. Most observers of developments in restorative justice over the past 20 years are well aware of new practices in Australia, Canada, New Zealand and the United Kingdom, as well as throughout the European Union. But while such an international perspective is helpful, it is not the full story. As is often the case, the larger global picture is lacking. What is happening in Africa? What is happening in Asia? What is happening in other, non-western places? The list gets lengthier as thoughtfulness fills in the time we put into this matter.

Dennis Sullivan and Larry L. Tift's new **Handbook of Restorative Justice** is the first of two large similarly titled compendiums that will appear in print in the early part of 2006 (the other volume edited by Gerry Johnson and Dan Van Ness will be reviewed in a forthcoming issue of **VOMA Connections**). Sullivan and Tift's contribution is that they open the doors wide for deeper considerations of decidedly varied conceptions of restorative justice, including not just individual-based practices, but also group-focused and international conflicts. In this groundbreaking volume, the editors establish not only a historical base for restorative justice practice and theory, but also an international range of projects that should challenge, as well as enhance, prospects for restorative justice.

The **Handbook** is divided into seven sections, covering restorative justice processes and practices, the foundations of restorative justice, the needs of victims and the healing process, extending restorative justice to make things right, gross human rights violations and transitional justice, critical commentaries on restorative justice,

and transformative justice and structural change. The co-editors provide a substantive introduction to the volume, as well as individual introductions to each section.

The 38 articles in this 600-page **Handbook** are comprehensive and compelling. Paul McCold opens the volume with an immensely constructive documentation of the restorative justice movement. Undoubtedly, there are occasional missing or overlooked pieces in this chronology, but it'll be impossible to speak of the history of restorative justice without reference to this article. Mark Umbreit, Robert Coates, and Betty Vos, building upon the wealth of their previous work, report on all evidence-based practice in restorative justice. Christa Pelikan and Thomas Treneck describe the evolving European landscape on victim-offender mediation and restorative justice. Gay Maxwell, Allison Morris and Hennessey Hayes assess family group conferencing practices. James Bonta and other Canadian researchers sum up evidence about the ability of restorative justice measures to reduce offender recidivism. Barry Stuart joins Kay Pranis to reflect upon peacemaking circles and Kathleen Daly, a sage, pragmatic voice from Australia, cautions about specific limits to restorative justice, including "the abilities and interest of offenders and victims to think and act in ways we may define as restorative."

In section two, focusing on the foundation of restorative justice, articles examine Navajo peacemaking, African *ubuntu*, the spiritual foundations of restorative justice, empathy and restoration and sanctuary as refuge from state justice. In the third section, focusing on victims and the healing process, articles cover victims needs, the role and importance of story-telling for murder victim families' quest for reconciliation, listening to victim voices amongst the clamor for capital punishment, and the experiences of family members of men and women punished by the state.

Section four examines some boundaries of restorative justice. Sandra Walklate explores the very concept of victim identity (Who are victims?), Joan Pennell the use of restorative justice to

protect children in domestic violence cases, Anne-Marie McAlinden the application of restorative justice to child sexual abuse cases, and Kieran McEvoy and Anna Eriksson the concept of "bottom up" human rights and restorative justice. Section five delves deeper into international human rights violations, including articles that cover mass trauma, the relation between reparations and gross violations of human rights, truth and reconciliation in Serbia, restorative justice and security in the Southwest Pacific, and Rwanda's failed experiment with restorative justice.

Various critical commentaries on restorative justice are given in section six, although critical perspective is far from lacking in other papers in other sections. Here, though, we find David Friedrichs addressing the relationship between restorative justice and criminology, Nathan Harris and Shadd Maruna on shaming and restorative justice, Todd Clear contrasting community justice versus restorative justice, and Bruce Arrigo giving a post-modern glance at restorative justice. Emily Gaarder and Lo Presser inquire into the prospects of restorative justice for female victims and offenders.

In the final section, which reviews transformative justice and structural change, David Gil discusses the "radical" paradigm of restorative justice, Edward Martin looks at deliberative democracy and environmental policy in Costa Rica, David Dyck assesses structurally responsive training, Fred Boehler of the Catholic Worker community in upstate New York reflects on efforts to live a restorative justice lifestyle, and M. Kay Harris fittingly ends the volume with her discussion of four perspectives that link restorative and transformative justice.

Overall, the **Handbook of Restorative Justice** is highly recommended for agency, program-based, and public libraries as well as for individual collections.

The Handbook of Restorative Justice can be obtained from Routledge, c/o Taylor & Francis Books Inc., 7625 Empire Dr., Florence, KY 41042, (800) 634-7064, (website) www.routledge-ny.com.

Working with Judges*continued from page 13*

vate agencies and community citizens. Explain how restorative justice can empower folks from within the community to become more involved in their own criminal justice process ("Legal authority not based on the moral authority of the community is illegitimate!").

- Although you should invite and encourage judicial involvement as early as possible, do not wait for the judiciary to approve or adopt your proposals before you begin working with others within the system. Invite all, but spend your time working where people are receptive and want to work with you. Sometimes the courts can lead restorative justice initiatives, but other times they will only come along after restorative justice initiatives have been implemented in other parts of the system.
- Be sure to provide them with good resource materials (articles, books,

and videotapes) to help them fully understand the principles underlying restorative justice. Provide them with a resource list. Also offer to do whatever follow-up support, presentations or training the courts will allow or think helpful to other judges or groups.

- Try to get someone else from within your system (who has some influence with the courts) on board with you before you go see the judge (the district attorney, the victim/witness coordinator, a community leader).

It is important to gain a clearer understanding of judges and help them put restorative justice to work. Restorative justice practitioners would benefit by the sharing of their experiences in this, and every aspect of making effective change.

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African Heritage*continued from page 7*

concept of justice in present day communities.

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