

Restorative Justice and Social Work
By Katherine van Wormer, MSSW, PhD
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Before I became a social worker, I spent a lot of time around the courts. As an instructor of criminal justice, I studied the adversary system and played a limited role in helping defense attorneys with jury selection. Much of what I learned about justice in the United States—the plea bargaining, the guilty released on minor technicalities, the “one-size-fits-all” harsh sentencing, the win-or-lose mentality—was disillusioning. Books such as Karl Menninger’s *The Crime of Punishment*, Howard Zehr’s *Changing Lenses: A New Focus for Crime and Justice*, and Jeffrey Reiman’s *The Rich Get Richer and the Poor Get Prison: Ideology, Class, and Criminal Justice* provide compelling critiques of the standard, Anglo-Saxon form of justice.

Contrast the terminology of criminal justice—punishment, zero tolerance, criminal personality—with that of social work—empowerment, social justice, cultural competence—and the fields come across as worlds apart. For these two fields to come together would take a paradigm shift. Such a shift may be occurring, in fact, in the form of a seemingly new movement that harks back to ancient times. It is known in its present reincarnation as restorative justice.

The adversary system will not be replaced; prisons will not be razed and correctional officers won’t be throwing away their uniforms just yet, but, according to the National Institute of Corrections, “a revolution is occurring in criminal justice.”

Rarely noted in the social work literature, restorative justice involves a reorientation of how we think about crime and justice. As a set of values, restorative justice offers great promise in regard to promoting healing and strengthening community bonds by addressing the criminal harm done to victims and communities.

What Is Restorative Justice?

Restorative justice is a collective term that loosely refers to a number of initiatives that hold offenders directly accountable to victims and the community. Victim-offender mediation is probably the most common restorative justice program in the United States; restitution and community service are widely used sanctions. There are more than 650 victim-offender mediation programs in the United States, and many more are operating around the world. New Zealand and Canada make extensive use of family group conferencing and healing circles for work with juveniles.

To learn how the process works, consider the Canadian healing circle facilitated by social worker Angel Yuen, as reported in “Healing Circle Shows Offenders their Human Toll” in the *Toronto Star*. “All the people touched by an offense have an opportunity to speak—at length—about how they were affected,” writes the author. “That means an offender sees and hears, firsthand, the human impact of his or her actions. It means the victim hears why the offense occurred. And it means the offender hears his or her own voice, often apologizing through tears, offering to make amends. At the close, a contract is drawn up detailing what took place and how the offender will repair the harm” (2001).

On a global scale, the most amazing example of truth-telling and catharsis for crime has taken place in South Africa before the Truth and Reconciliation Commission. In intensely emotional sessions, former officials of the apartheid regime were brought face to face with their victims, many of whom they had tortured. Healing was centered on the communication process itself rather than on retribution for the pain that was inflicted.

On a visit to Canada, I learned from social workers how juvenile justice had interpreted restorative strategies to help kids stay out of trouble. One youth who had burglarized the home of his neighbors was held accountable by the neighbors. Seated in a circle, surrounded by family members, the boy was brought face to face with the personal suffering generated by the crime. The impact of such a community encounter can be positive, eliciting sincere apologies, reconciling neighbors who may then lose their fear of each other. In contrast to court adjudication, the conferencing encourages truth-telling and creative ways of making amends. Social workers who had participated as facilitators in such proceedings were gratified by the good feelings that often emerged from such dialogue. Just as calls for retribution often bring out the baser instincts in people, a focus on restoration and empowerment also tends to bring out the best in human nature.

Although the term restorative justice has become popular only since the 1990s, this form of dispensing justice is rooted in the rituals of indigenous populations as tribal members settled disputes in sentencing circles. A feather or “talking stick” may be passed around ceremoniously from speaker to speaker to signify whose turn it is to speak.

Canadian Mennonites, noted for their emphasis on pacifism and communal decision making, began to experiment with meetings between victims and offenders to establish restitution. From these simple beginnings, the victim-offender reconciliation movement was born; it continued to be used widely in Canada and came to the United States in the 1970s (Zehr, 1990). Feminist-inspired victims’ rights activists played a role in raising consciousness regarding the need for victims to be heard in the criminal justice process.

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

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

In 1991, Vermont decided to overhaul its system, setting up reparative boards statewide to focus on repairing the damage to the victim and community. Composed of volunteers, the reparative group is charged with ensuring that low-risk, nonviolent offenders are made aware of the impact of their behavior on members of the community. Vermont, in fact, is the first state to implement such conferencing on a statewide basis and the first to institutionalize the restorative justice philosophy.

The goal is to have all offenders pay back their victims even if they are in prison. Treatment is provided to meet the offender's needs as well. As with all restorative justice programs, the goal is to reduce the harm the offender has done to the victims and community and to reintegrate the offender into the community. Preliminary studies from Vermont show that more than 80% of the 4,000-plus offenders who entered the mediation process have completed it successfully and that they are less likely to reoffend than those who enter probation.

The most remarkable program I have encountered is AMICUS in Minneapolis. This program for girls in trouble with the law combines gender-specific concepts with the principles of restorative justice. A major challenge of this approach is to counter what the girls—hardened by experiences with the criminal justice system—have learned: don't trust anyone, don't look anyone straight in the eye, the victim is the enemy. Now they are asked to sit in a circle—along with victims, victims' family members, their own family members, and their probation officers—and to trust the truth that will emerge from the circle. Individuals tell the offender how her behavior has caused them harm with an emphasis on feelings; a spirit of empathy, dialogue, and healing prevails.

Relevance to Social Work

This focus is relevant to the field of social work, first and foremost because social workers may have caseloads containing persons who have been victimized by crime or who are court-ordered into treatment because of offending behavior. Such clients may or may not be entangled with the criminal justice system. Social workers may be directly or indirectly involved in court proceedings; they may even be in a position to influence legislation pertaining to correctional treatment.

The mission of social work is rooted in a set of core values. According to the National Association of Social Workers' Code of Ethics, the core values of social work are as follows: social justice, dignity and worth of the person, importance of human relationships, integrity, and competence (1996). Restorative justice relates closely to social justice or fairness in that the victims and offenders each have their interests represented in the proceedings. Restorative justice as a non-adversarial approach moves beyond simplistic either-or, winner-take-all modes of settling disputes into the realm of negotiation and the attempt to be fair to both parties. Third-party solutions can maximize benefits for all and minimize social costs. When lawyers are involved, they work with each other rather than against each other.

Social justice is provided to the victim in that effort is made to restore what the victim has lost, while at the same time requiring the offender to face the consequences of his or her acts and the personal pain caused to the victim, the victim's family, the offender's family, and the community. These strategies can be combined with those of community-based corrections to create multifaceted programs of benefit to all

involved (Hahn, 1998). Rehabilitation, rather than retribution, is the thrust of this approach.

Through embracing members of the extended family, restorative justice also has been found to be highly effective in minority communities. These minority communities—including Native American, African American, and Latino traditions—are collectively, rather than individually, focused. The Circle Sentencing approach, as used in the Yukon of Canada, utilizes traditional justice processes of tribal communities to view crime holistically. Tapping into the strengths of community resources, the process develops sanctions based on consensus of community members. Often a strong, spiritual component is part of such sentencing and healing circles.

Forgiveness and healing can go hand in hand. Forgiveness—in the sense of an ability of the aggrieved party to let go—can never be forced. When it occurs, forgiveness can be a powerful force for both victim and offender. Through counseling preparatory to victim-offender-community conferencing, social workers can play a key role in helping participants deal with strong feelings connected to the offense.

Dignity and worth of the person is the second core value of social work. Through restorative justice, the dignity of both the offender and victim are maintained through a process that is the opposite of customary criminal justice proceedings—the orange suit, publicity attached to the arrest and trial, the indignities and accusations heaped upon witnesses by lawyers on the opposing side. The focus of restorative justice is on the offender's whole personality, not only on the acts that have caused the harm. Ideally, this informal but emotionally intense process will have a humanizing effect on all participants. Unique to this process is the emphasis on restoring the individual to the community rather than on temporarily removing him or her from the community. This aspect of restorative justice can produce a special benefit to women, minorities, and other vulnerable persons who often fail to receive individual attention through the adversarial process. In this framework, voice can be given to concerns, for example, those relating to his or her sense of safety.

Importance of human relationships is another theme of the restorative justice movement. Through community service projects and psychologically through the contrition and remorse shown toward persons who are injured by the wrongdoing, offenders help compensate for what they have done. Such a drawing together of offender and victim in a face-to-face meeting might be especially conducive to helping youth appreciate the impact of their behavior and begin to turn their lives around.

What does research say about the effectiveness of such encounters? Follow-up surveys show that victims consistently rate the process positively, according to Mark Umbreit, PhD, director of the Center for Restorative Justice and Peacemaking, School of Social Work, University of Minnesota, St. Paul. The most extensive research to date shows that while the possibility of receiving restitution appeared to motivate victims to enter the mediation process, they reported that meeting the offender and being able to talk about what happened was more satisfying than receiving restitution. In closely monitored meetings between inmates and former victims in British Columbia, victims reported they could see the offender as a person rather than a

monster. This view helped them feel less fear and more peace. Offenders, in turn, felt more empathy for their victims' feelings and provided evidence of increasing self-awareness.

The core social work value of integrity is evidenced in a format built on truth and frank disclosure. In contrast to traditional forms of justice, in which the accused remains silent while his or her lawyer fights against disclosures of guilt being admitted into evidence and challenges the integrity of prosecution witnesses, restorative justice encourages open sharing of information among involved parties. Related to integrity is the notion of accountability. For example, counselors subscribing to this model would encourage girls in trouble with the law to take an active role in the modification of their own behavior. Putting them in touch with their own victimization often is seen as a first step in helping them to empathize with persons they may have victimized. For these girls, as well as for men and women serving time in prison, victim impact panels may be invited to speak of the suffering they and their families have endured as victims of crime.

Competence, the final core social work value, comes into play in the professionalism shown by facilitators engaged in the practice of restorative justice. The facilitators may be lawyers, tribal leaders, or clergy. In Australia, the police play an active role. In New Zealand, Canada, and increasingly in the United States, social workers are trained for such facilitation. Of the professions, social work is the most ideally suited for conflict resolution of this sort. Through the School of Social Work at the University of Minnesota, the National Restorative Justice Training Institute trains professionals in mediation and conflict resolution in communities, schools, and workplaces, as well as within the justice system. Support and technical assistance are provided by systemic change in the juvenile justice system.

The core social work values, as we have seen, are compatible with the principles of restorative justice. Schooled in strength-based interventions, social workers, at the present time, are striving to shift from a deficit, pathology-based model to one that builds on the untapped resources of people and communities. Social work, as a profession, is steeped in a history of advocacy for social justice and prevention work, especially with juveniles. Experience in family counseling and interdisciplinary teamwork are further attributes of the profession.

In my book, *Counseling Female Offenders and Victims: A Strengths-Restorative Approach* (2001), I present a paradigm of the strengths-restorative model. This model represents the principles of restorative justice with two modifications. The first is a formal recognition of the role of the state in overseeing that justice is done and that victims' rights are protected. The second is an elimination of shaming—sometimes termed integrative shaming—a concept borrowed from New Zealand's indigenous rituals. The concept is incongruent with the strengths perspective. The challenge to members of social work, “the policy-based profession” is to learn ways of making correctional strategies more consistent with social justice and to participate in the planning and implementation of restorative community justice initiatives.

Effective strategies for restorative justice advocacy are as follows: to embark on cost-effective analyses of ongoing programs; engage in special outreach efforts to victim/witness assistance groups to dispel any initial skepticism; unite with

progressives in the field of criminal justice as well as natural allies at the grassroots level for educational efforts; lobby legislators for funding of state and local pilot projects for certain designated categories of offenders; and, finally, build community support with outreach to minority groups, especially native populations, to promote a restorative framework. If we can begin to repair the harm that's been done to the offender while helping the offender take responsibility for his or her actions, the offender will begin to repair the harm he or she has done to the community. At the same time, paying attention to the victim's emotional and physical needs can promote recovery of personal losses and a sense of satisfaction through active involvement in the resolution and reconciliation process.

The social work profession—with its long history of advocating for community-based treatment, believing that most human beings are redeemable, and stressing interdisciplinary team work—can expect to play an increasingly active role in facilitating such nonadversarial forms of justice as restorative justice.

— Katherine van Wormer, MSSW, PhD, is a professor of social work at the University of Northern Iowa. She is the author of *Counseling Female Offenders and Victims: A Strengths-Restorative Approach*. Her Web site is www.uni.edu/vanworme/index.html.

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