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Planting Restorative Justice at the Grassroots

When I was ten, my grandparents gave me a pair of moccasins for Christmas—the very moccasins I had wanted not for days or weeks or even months, but for years. When my teacher announced that we would be studying Native Americans and added that we could bring related items from home, I proudly took in my new moccasins the next day. At the end of the day, I put my shoes on and carefully placed my moccasins under my desk. But when I came to class the next morning, my moccasins were gone. I asked my teacher whether she knew where they were, and she suggested that I talk to the janitor. In the days and weeks that followed, my distress deepened, as I repeatedly asked every person on the janitorial staff, inquired at the principal's office, checked the lost-and-found, even got Mom to help me put up signs around the school about my lost moccasins—to no avail. I started thinking someone in my class must have stolen them, and I speculated about who it might be.

The last day of school came, and with it the conviction that I would never see my moccasins again. As I tearfully cleaned out my desk and prepared to go home, my teacher called me over, reached into her cupboard, and pulled out my moccasins. In a confusing mixture of relief, joy, and then mounting anger, I took them and ran home, burst into the door, and told my mom what had happened. She called my teacher and asked, “What did you think you were doing?” Mrs. Holmes answered, “I wanted Daniel to learn not to leave his things under his desk.”

One could debate whether Mrs. Holmes's punishment fit my “crime.” But more than that, the experience left me asking the larger question of whether punishment is the best response

we can muster when someone violates a rule or breaks a law. Apparently, in Mrs. Holmes's view, if a student does something wrong, he should be punished, to teach him a lesson. But instead of having the positive effect of teaching me not to leave things under my desk, her punishment had the negative effect of eroding my relationships with my fellow students and alienating me from her as the enforcer of that rule. For me, the bad taste of the moccasin experience overshadowed everything else that happened in her fourth-grade classroom.

I have come to believe that if we want to have a positive effect on the offender and the victim, the best approach is not to alienate the offender with retribution, but to seek to restore relationships between victim, offender, and their wider social network. While large-scale implementation in the criminal justice system is a long way off, starting to introduce restorative justice in schools and other grassroots contexts is ideal.

These two forms of justice, retributive (like the approach Mrs. Holmes used) and restorative differ in several fundamental ways. Retributive justice is focused on finding out what law was broken, who is at fault for a crime, and what their punishment should be. Restorative justice is focused instead on finding out who has been hurt and what their needs are that have arisen because of this hurt. Restorative justice then goes about figuring out who should meet these needs and how the needs should be met (Zehr, *Little*, 21). Retributive justice punishes people for the wrongs they commit, to give them disincentives for repeating the violation. Restorative justice instead sets out to restore relationships between victim and offender, and between offender and community. It does so by addressing the needs created by the wrong (13). In retributive justice systems, the system (on behalf of the victim) takes revenge on the offender, whereas in a restorative justice approach, the offender plays a role in trying to help the victim get back to a normal life, even as the offender is reintegrated into society as much as possible.

However, our society's legal system is largely retributive. When someone is convicted of a crime, we don't ask how the situation is going to be made right for the victim. Instead we focus on punishing the offender, often with a sentence. Occasionally people have to do community service, which sounds like a restorative approach, but in actuality it rarely addresses the victim's situation. Sadly, this approach not only fails to help the victim, it often fails to create a change of heart in the offender. The recidivism rate in the United States is above 67 percent (Fifteen). More than two-thirds of the people convicted of a felony are later arrested for another felony. Our retributive system neither helps the victim, nor does it foster change in the offender.

A Winnipeg, Manitoba study compared probationers who hadn't gone through a restorative justice program to those with similar criminal records who had gone through such a program. The study showed that the recidivism rate of those who went through a restorative justice program was just 15 percent after one year when compared to the 38 percent in the other group. And the benefit wasn't just short term, as time went on, the difference in percentages continued to increase (Bonta).

The sad reality is that we can't just say, "It's apparent that the effects of restorative justice are more positive for everyone: victim, offender, and society. Let's make our justice system a restorative justice system." If undertaken, the process of transformation would be complicated and gradual at best. People are generally averse to change, even change for the better. We have a well-defined legal code, with punishments that don't allow for a lot of flexibility in trying more creative solutions. We have a whole cadre of people—attorneys and judges—who are trained in the procedures and punishments of our adversarial system, and who are disinclined to challenge its fundamental assumptions.

Another barrier to instituting restorative justice is the fact that at least one of the parties

involved in the wrongdoing needs to want a restorative approach to work. If neither wants restorative justice to succeed, it cannot. If only one of the parties wants restorative justice to work, the process is severely hampered, but possible (Marshall, *Restorative*, 11). Human nature being what it is, some people who are victims of crimes will settle for nothing short of revenge. And offenders often don't want to face the people they've harmed. For these and other reasons, a restorative approach will probably never fully replace the criminal justice system that we have in place today.

In contrast to the legal system, implementing restorative justice in the schools would be relatively easy. Many schools have a much less strict set of rules that are far less formal. Not only is the code less formal, but the punishments are less set in stone and largely depend on the particular situation of the student. There are some schools, such as those with “zero tolerance” policies, in which punishments are predetermined. But even in these scenarios, it's easier to change a school policy than a whole society's legal system.

Restorative justice isn't just easier to set up in the schools; it's also one of the most effective places institute it. Schools have the opportunity to reach virtually the entire population of young Americans at a very formative age. If we can instill the values of restorative justice in children, they will carry those values with them throughout their lives. When they become adults and the leaders of our society, restorative justice will become more common practice and perhaps even be integrated into our legal system.

While teaching restorative justice has great promise for the future, it also can have a positive effect during students' time at school. Studies show that implementing restorative discipline in schools significantly lowers suspension rates. Problem students who used to get suspended are instead reintegrated into the school and become more a part of school life

(Amstutz and Mullet 51). The benefits spill over into other aspects of these troubled students' lives. Suspensions have been linked with worse academic performance and higher levels of juvenile incarcerations (47). And it isn't just the offender who reaps the benefits of restorative justice. Research has shown a 75 percent increase in the victim's satisfaction with the outcome of a restorative justice solution, compared to the results of a retributive justice process (Marshall, *Restorative* 21).

For people of faith, the more important question is not so much, "Does restorative justice have benefits?" as, "What would God want us to do?" New Testament studies professor Christopher Marshall contends that "biblical justice is all about relationships" (35). Biblical justice is about God's relationships with people and humanity's relationship with itself. Restoring relationships is one of the key goals of restorative justice, whereas retributive justice reinforces and deepens the rifts in relationship. Thus Christians who practice restorative justice are practicing a form of biblical justice. Marshall also says that justice is central to God's nature, and the Bible affirms that we were created in the image of God. Demonstrating God's restorative justice through our actions is a way of living out our God-given nature (26). There are not only compelling logical reasons to practice restorative justice as opposed to retributive justice, but the Bible gives us ample theological reasons to do so. God's people have a biblical calling to work for justice—and not just any justice, but justice that restores people to their true selves and puts them in right relationships with others.

The grassroots neighborhood health center where my father works deals in another kind of restorative justice on a day-to-day basis as staff and neighbors come together to create a healthier community. But several years ago an intruder gave them an opportunity to work restoratively within the criminal justice system too. Repeated break-ins had left messes to clean

up, but no real harm was done—until one night the intruder pried open an expensive metal door in order to gain access. The staff rigged up a makeshift alarm system, and within two days the police had apprehended a teenage boy with hearing loss who was having trouble at school.

A health center board member whose son had done some time in juvenile detention really didn't want Tony to end up there, so he pled for a more positive response to this young offender. The legal system didn't welcome interference from the health center staff, but the staff persisted. It was a first offense, and eventually the judge agreed to sentence Tony to two hours of community service each week for three months, at the health care center. He showed up each week, did his work sullenly and half-heartedly, and left—until one day he came on Wednesday afternoon, at a time when some patients and staff members regularly gathered to cook and eat a meal together. They invited Tony to join them. He disappeared, but returned minutes later with some banana bread to share.

As my dad tells it, “After that first meal, Tony showed up every Wednesday afternoon to do his work and then to eat with the group. His demeanor completely changed, from sullen to cheerful. One day he announced that he and his dog were patrolling the area at night, to make sure no one broke in! A couple months later he announced that he had made the honor roll at school for the first time, and the group organized a party to celebrate with him. As a staff, we started out feeling resentment about the intrusion into our space and the messes we had to clean up. Now we rejoice in Tony's success and feel pride in him and have an investment in his future” (Gingerich).

Stories like Tony's show that restorative justice can have a profoundly positive effect on the offender and the victim. It has great potential to change the offenders' lives for the better, and helps victims move on with their lives by meeting their needs. Retributive justice settles for

helping the victim get revenge on the offender, which often just creates more hard feelings, increases alienation, and perpetuates the problem. The main issue is how to start the process of change. Our grassroots organizations, and especially our schools, are great places to start. We can't afford not to use them to restore lives and build relationships.

Bibliography

Amstutz, Lorraine and Mullet, Judy. *The Little Book of Restorative Discipline for Schools*.

Intercourse: Good Books, 2005.

Bonta, James. "Restorative Justice and Recidivism." Public Safety Canada Jan. 2003. Internet.

http://www.publicsafety.gc.ca/res/cor/sum/cprs200301_1-eng.aspx (28 Nov. 2007).

Gingerich, James. Personal interview. 21 Nov. 2007.

Marshall, Chris. *The Little Book of Biblical Justice*. Intercourse: Good Books, 2005.

Marshall, Tony. *Restorative Justice an Overview*. London: Home Office, Information and Publications Group, 1999.

"In a 15 State Study, Over Two-Thirds of Released Prisoners Were Rearrested within Three Years." Bureau of Justice Statistics Oct. 2002. Internet.

<http://www.ojp.gov/bjs/reentry/recidivism.htm> (27 Nov. 2007).

Zehr, Howard. *Changing Lenses*. Scottsdale: Herald Press, 1990.

Zehr, Howard. *The Little Book of Restorative Justice*. Intercourse: Good Books, 2002.