

# Restorative Justice

Our criminal justice system asks these three questions:

What law was broken?

Who broke it?

What punishment is warranted?

Restorative justice asks an entirely different set of questions:

Who was harmed?

What are the needs and responsibilities of all affected?

How do all affected parties together address needs and repair harm?

—Howard Zehr's questions, as restated by Restorative Justice for Oakland Youth



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From Behind the Mask  
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# From Individual Rights to the Beloved Community: A New Vision of Justice

by Peter Gabel

**L**IKE A ROSE THAT HAS SPROUTED IN A WEED GARDEN and induced the weeds to back away in awe, the restorative justice movement has entered American legal culture and is posing an important challenge to core assumptions about human beings and about the very nature of human reality that our legal culture has taken for granted for more than two hundred years.

The United States itself was founded on a principle of human freedom that presupposed an inherent antagonism between self and other, a belief that the essential meaning of liberty was that we need to be protected *against* other people. This Fear of the Other was in part a rational response to the religious, social, and economic persecution that had in part characterized previous historical forms of social life, but it also introduced its own distortion into our liberal social fabric: it gave rise to a conception of social being that conceived of human beings as socially separated “individuals” who might form voluntary relationships with others through love, or through contracts, or through voluntary religious and civic organizations, or through democratically elected governments with strictly limited powers, but who at bottom needed always to hold in reserve the memory that the other posed a threat to one’s liberty and who therefore required a binding legal culture that placed “the rights of the individual” above all other social goods.

Implicit in this worldview has been the conviction that we are not inherently connected beings whose fulfillment comes through our mutual recognition of one another, through the inherent bond of our social nature that is completed through the embrace of love and solidarity, but rather that we are cast into the world as disconnected monads who only come into relation after the fact of our individual incarnations, with the borders between us being in need of constant policing to make sure that the seduction of trust never leads us to let down our guard. While we might “voluntarily” engage in any foolish dependency on the other that we choose, the law is always there to guarantee “as a matter of law” that nothing actually *binds* us except our mutual and solemn commitment to our everlasting ontological separation.



*What if Lady Justice were omnipartial? A new legal culture based on empathy and care might inspire a better use for that blindfold of hers.*

## Liberty as Spiritual Separation in American Law

AS YOU READ THIS FROM WITHIN YOUR OWN PRIVATE SPACE, as you float through the solitude of your day, consider how the institutions of American law condition and envelop you in the spiritual prison of your separation. You are a citizen in a democracy, but the most fundamental right that defines that democracy is the “secret ballot” rather than a process expressive of any communal bond that unites us. You are legally bound to all others through a “constitution” that protects you against, and therefore affirms the constant threat of, infringement on your right to freedom of speech, of religion, of association, and your right to be protected against others searching your house or making you quarter soldiers or taking away your guns ... but that binding constitution affirms nothing about our connection to one another and therefore offers no commitment to making

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sure that our social connection will be realized through our legal process. The substantive law of property guarantees that we can own separate land parcels and exclude others from those parcels, but affirms no binding obligation to share the land, or the food that it produces, or the shelters that we construct upon it. The law of contracts guarantees our freedom to enter binding agreements with others, but in a social context that assumes we are competitors in a marketplace whose goal is to get the benefit of our bargains, rather than “cooperators” whose intention is to realize ourselves through mutual fulfillment and shared objectives. Tort law assures we are protected against others who might pull a chair out from under us as we sit down to the dinner table, or intentionally or negligently harm us on highways or in the operating room or through the consumer goods we buy in their stores, but it does not affirm that we have any duty to care for each other, to rescue each other if we are in distress, or to otherwise act in accordance with a bond emanating from our common humanity. Under the law of corporations, shareholders are assumed to be anonymous investors seeking as discrete individuals to maximize their short-term profits and to be bound to each other solely by that goal, rather than to be socially responsible beings united by a corporate aspiration that will further the well-being of the community or the planet. And finally there is the criminal law, which understands social violence of all kinds as freely chosen individual acts against the state calling for punishment of the individual actor rather than as social acts expressive of distortions within an inherently social fabric that call for repair of the social fabric itself.

The conviction that we can only be *bound* by our separation and not by our connection is reflected not only in the substance of law, but also in our forms of legal reasoning and our embodied legal processes themselves. We have learned to equate “due process” with the adversary system, which defines conflicts as contests between opponents who cannot trust each other to tell the truth and who therefore have every right to tear each other down through cross-examination even if one believes the other side is telling the truth. Each side in the gladiatorial combat is encouraged to aggrandize the correctness of his or her own position, to never admit weakness or doubt or frailty for fear of undermining one’s case, and to demean and minimize the other side ... because that is the only way to absolutely guarantee that no one in the proceeding—neither judge, jury, nor one’s adversary—will be taken in by misplaced trust. Evidence is limited to empirical proof of hard facts, past human experiences emptied of feeling and presented as mere observed behaviors, subject to relentless testing for misperception or hearsay, because “allowing in” the meaning and feeling of past events would be inherently subjective and could not be trusted to be presented or heard without bias and distortion. And hovering over the entire proceeding are the rules, with justice being defined as accurate application of the rules to the facts according to an analytical form of legal reasoning—the clever product of the much venerated “legal

mind”—that excludes compassion or empathy or care or the aspiration to a world based on love and understanding, and instead valorizes logic and “common sense,” the common sense of a world based on individual self-interest and perception of the other as a stranger whose interests clash with rather than complete our own.

## The Genius of the Liberal Legal Framework and the Harm Created By It

AS UNFLATTERING A PORTRAIT AS I HAVE PAINTED HERE OF our inherited legal culture, we cannot but recognize the genius that animates it and that unifies all its elements. *If* one wished to construct a binding image of the social world that would maximally protect the individual against all of the possible evils of subjection to the other that have occurred throughout history—slavery, serfdom, the burning of millions of women at the stake for heresy and witchcraft, cruel and unusual punishments like drawing and quartering or the stockades, every form of demonization through superstition, projection, and magical thinking—the generations that preceded ours did a remarkable job of inventing a system of justice that was alert to the risk of the threat posed by the other at every turn. And we should admire and embrace the equally remarkable accomplishments for which this commitment to individual liberty has been in significant part responsible—the partial overcoming of the inherited social hierarchies of the aristocracy, and more recently of racism, sexism, and, increasingly, homophobia by gradually eliminating as a matter of law the legitimacy that these stereotypes and negative judgments could formerly claim. While the liberal revolutions of the late eighteenth century could not directly address and overcome the causes of these forms of social injustice because their own worldview recognizes only the rights of socially separated individuals rather than the need for a legal culture and process to heal the social distortions of an inherently socially connected, interhuman universe, it is nonetheless true that the historical affirmation of the dignity of the individual that was born in the Enlightenment and became binding on us one to the other at the end of the eighteenth century has made an immense contribution to our autonomy from the church, the state, inherited caste systems, and all other ways that exploitation and domination by the other had previously been legally justified.

Yet as we now look out at and live within the envelope of the world we have thus created, we must come to realize by a kind of evolution or enlightenment—by “waking up”—that the liberal framework, the framework of separation, is not only inadequate but harmful. It is harmful because it mischaracterizes a hopeful, potentially loving, potentially mutually confirming and anchoring collective destiny as a destiny of solitudes. And because the liberal worldview is not merely a matter of opinion, but is made binding through law on all citizens, it forms a kind of constant unconscious backdrop that others are receding away from us, that we must pursue our own self-interest, protect ourselves, and endure the pathos



*“The United States itself was founded on a ... belief that the essential meaning of liberty was that we need to be protected against other people,” Peter Gabel writes. As a result, our legal culture sees humans as isolated individuals, not members of a community.*

of our lives and deaths as solitary beings. Still more, because we in reality are not solitary beings but beings animated by the longing for mutual recognition, affirmation, and love, the liberal worldview inevitably generates a kind of chronic social paranoia that results from the contradiction between the interhuman truth of our social nature and the social message that the other cannot be trusted. As a way of “mediating” this contradiction, of trying to satisfy the need for connection with others in a social world in which others are presented as a threat to our individual safety and integrity, many of us are drawn to grandiose, imaginary collective identities of perfect unity (the Nation, God, the Family, the Gang) accompanied by demonization of other groupings who become the repository of our fear of nonrecognition and humiliation that our own longing for love, acceptance, and recognition will be rejected rather than reciprocated. In this way, the liberal paradigm actually tends to create and recreate the very forms of unfreedom and inequality that in its conscious aspect it seeks to delegitimize and eradicate. Thus as Dr. Seuss suggests in *The Butter Battle Book*, in the world as it is we may use legal means to eliminate racism, sexism, and other traditional forms of demonization only to turn to dividing the world between those who butter their bread on one side and those who butter it on the other.

## Transcending Liberalism: A New Vision of Legal Culture

SO AS MUCH AS WE SUPPORT THE GREAT ACCOMPLISHMENTS of the liberal revolutions and as much as we should continue to fight for the remaining liberal gains not yet won (like the right to gay marriage) within that past and passing paradigm, we need also to support the transcendence of that paradigm toward a new vision of law and legal culture that seeks to foster empathy, compassion, reconciliation with the other, and the fundamental rediscovery that the other is not essentially a threat, but the source of our completion as social beings.

Along with the remarkable Truth and Reconciliation Commission in South Africa, which demonstrated that a legal process can be used in the service of healing even terrible acts

of social violence and which made possible the overcoming of Apartheid without the extensive bloodshed and counter-violence common to prior revolutions, the most significant harbinger of the new paradigm has been the restorative justice movement to which we are devoting this special issue of *Tikkun*. The critical difference between restorative justice and the liberal model of justice that we have inherited from prior generations is that restorative justice begins by embracing an ideal of justice not as a blind woman deciding without prejudice which of two equal individuals has the better right to be vindicated under the law, but rather Martin Luther King’s ideal of justice as “Love correcting that which revolts against love.” In other words, restorative justice begins with a worldview in which we are already in relationship, and in which our greatest aspiration is to realize the possibility of mutual understanding and acceptance through new spiritually alive legal processes that are designed to try to heal the distortions that have masked that possibility of healing and redemption from us.

As you read about the ways of restorative justice in the essays that follow, with their emphasis on the importance of taking responsibility, performing restitution to those harmed, and aspiring to apology and forgiveness as means of reintegrating broken relationships and sometimes knitting together and repairing whole communities, try to imagine a world in which restorative justice processes are being conducted on a daily basis in the city halls and other major civic buildings in the center of the cities or towns that you live in. Imagine how much this change in the legal culture of your city or town would alter the way you perceive your neighbors and the spiritual and moral character of communities and neighborhoods that surround you. For it is in the public manifestations of restorative justice that its true social impact will be felt: its capacity to establish through public visibility and legitimacy that we are coming to recognize and publicly acknowledge what we have known and longed for all our lives—that we are in this together, that we are not infinitely and eternally separated by what divides us, and that while acknowledging and respecting the contributions to us of our forefathers (or, if you like, our “founding fathers”), we can risk leaving them behind. ■

# Walking Toward Conflict

by Dominic Barter

**A**T THE TOP OF ONE OF RIO DE JANEIRO'S FAVELA shantytowns—one of several recently occupied by heavily armed military police units—an uneasy gathering begins. Where moments before children chased a ball, now local leaders on several sides of Rio's long and complex social divide assemble to hesitantly, courageously look at each other and at what they have in common. The gathering includes members of resident associations, local shopkeepers, elders, youth leaders, police, and members of the drug gangs that, until recently, controlled the running of community life.

A few short weeks before, these same actors had met in the same place but in a completely different way: enmity across class and social divides had exploded into petrol bombs, rubber bullets, and serious injury. Strategies of repression and revolt came to blows; outrage, pain, and fear followed. As the Brazilian saying goes, "we've seen this film before."

Now those present at the gathering form a circle. This simplest, most ancient of social patterns describes an intention—to recognize the other, to share meaning, to invite truth-telling. Guided by precise questions drawn on the wall for all to see, the participants edge forward in that most counter-intuitive of social discourses: dialogue. An occasional hand is raised in emphasis, while the other remains firmly on a military-grade weapon. This is not a truce. It is a new way to engage, a rediscovered force with the potential to transform social reality. As one participant describes in a break, "It's hard. I still remember when he shot my brother. But this is different. When he tries to understand me, we are less enemies. I can see in his eyes it's the same for him."

In less time than it had taken for the previous month's riot to make the evening news, a strategy is agreed upon: a set of voluntary agreements that respond to the key concerns of those present. The parties also agree on a time frame for the implementation and evaluation of the agreements.

The structure and process that guided the meeting that evening began to emerge almost two decades earlier, at the height of police and gang conflict in the mid-1990s. In the years that followed, I worked with others in Brazil to develop an integrated, systemic response to painful conflict, crime,



*In a growing number of favelas in Brazil, like this one in Guarujá, São Paulo, systems have been set up so residents can bring their conflicts to Restorative Circles.*

and disagreement. This response encompasses both a unique restorative practice and a specific approach to creating the systemic conditions within which such a restorative practice, and its results, can emerge. As a coordinated whole, this specific response—known as Restorative Circles—represents less a defined procedure and more a dynamically shifting investigation into the power of community self-responsibility and personal responsiveness to the interdependent web of our lives.

Restorative Circles have been extensively used in schools, court systems, prisons, families, and organizations—and more recently in faith communities, hospitals, universities, and development work. In each of these varied settings, as in each unique subculture in which restorative practices develop, the forms necessarily shift. Nevertheless, the defining characteristics of Restorative Circles remain rooted (*continued on page 70*)

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*Dominic Barter has been active in the field of nonviolence and social justice in more than fifteen countries. He co-developed the Restorative Circles practice ([restorativecircles.org](http://restorativecircles.org)) used in communities and institutions, and in the Brazilian government's UNDP- and UNESCO-supported restorative justice pilot projects.*

# The Day the Jail Walls Cracked: A Restorative Plea Deal

by Sujatha Baliga

**W**HEN I GOT THE CALL FROM HOWARD Zehr, I balked at the idea.

“In a capital case? He shot her in the head? No chance, Howard.”

Howard agreed, but encouraged me to speak with the young man’s mother and explain, from a restorative lawyer’s perspective, why it wouldn’t work.

“Go ahead and give her my number. But I don’t have anything good to tell her. What I do here with kids in Oakland is never going to happen in a capital case in Florida.”

Within the hour I was speaking with Conor’s warm and tenacious mother, Julie McBride, who tearfully told me how a few months earlier her nineteen-year-old honor student, planning to take his own life, shot his fiancée instead. Conor drove himself to the police station and confessed. She went on to explain that “everyone” wanted the case resolved through restorative justice.

“Even the victim’s parents?” I asked.

“Yes! Kate and Andy Grosmaire are the ones who told me about restorative justice.”

“You’re in contact with them?”

“I just had breakfast with them last week. My husband, Michael, meets with Andy every Friday. And both of Ann’s parents visit Conor in jail.”

“Julie, it sounds like a remarkable situation. But I’m just not sure what we can do in a first-degree homicide case at this stage of the game.”

I went on to explain how I facilitate restorative practices in Oakland to meet victims’ needs while keeping children out of the juvenile justice system for crimes like burglary and teen dating violence. I told her about family group conferencing—how victims, families, police, the district attorney, and affected community members meet face-to-face with the child who caused harm to develop a plan to repair the harm and support the young person to follow that plan.

“But not yet for cases with gun charges or for homicides, let alone first-degree murder. Julie, it took me years to build the kind of trust I have with the DA’s office here. So even if your son and the victim’s family are amenable, I just can’t imagine



*Andy Grosmaire talks about his daughter, Ann, who was killed by her fiancé, Conor. The Grosmaires asked for a restorative justice process to resolve the case, a highly unusual request from the parents of a murder victim.*

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how we could pull this off in a homicide case in the Florida panhandle. So I just can't let you hire me since I can't imagine how I can help you."

"I understand that you can't make any promises, but please, if you just talk with the Grosmaires, I think you'll want to be involved in this case," Julie pressed.

"Sure," I said, never expecting to hear from them. Jaded by my past work as a defense lawyer, I dismissed Julie as another wonderful mother holding out an impossible hope.

But the very next day, I was listening to Kate and Andy Grosmaire tell the story of how they lost their daughter, Ann. It brought tears to my eyes to hear that when Conor's father walked into the hospital, Andy embraced him. Then Kate shared how, despite knowing that her youngest daughter would be taken off life support later that day, she visited Conor in jail to tell him they had forgiven him. I learned that all of this was grounded in their deep Catholic faith.

"If God forgives us, how can we not forgive Conor?" Andy asked.

As I listened to the Grosmaires' story of seemingly impossible love and forgiveness, my feeling that nothing could be done started to shift. While forgiveness is not a prerequisite for starting restorative work, nor even required as an outcome, if by some spiritual or psychological grace it has already taken place in one or more of the survivors it can be extremely helpful.

"We met with the State's Attorney; the death penalty is already off the table," the Grosmaires explained. "We don't need Conor to serve the rest of his life in prison and we have no interest in this case going to trial. We'd like to have restorative justice be the way this case gets handled."

But even with victims so willing to come to the table, achieving a restorative outcome in a homicide case would be an uphill battle. This was a conservative jurisdiction on the Florida panhandle with severe penalties for gun crimes. Conor McBride had fired a shotgun at Ann Grosmaire at close range, and his confession made clear that while it wasn't premeditated, it wasn't an accident, either. Restorative dialogues in cases this serious do happen, but only after a defendant is well into his/her lengthy prison sentence. But something in the voices of both Ann's and Conor's parents—a wisdom and beauty and creativity growing out of an unthinkable horror—made me incapable of saying "no chance" as flippantly as I'd said it to Howard Zehr the day before.

I thought about how restorative justice, at its best, uses participatory dialogue to centralize victims' needs, and how it uses collaborative decision making to decide the outcome of a case. The Grosmaires were asking for restorative justice at its best.



*Kate and Andy Grosmaire were deeply affected by Catholic teachings about forgiveness.*

They wanted to meet with Conor now—not in fifteen years—to explain the impact of his crime and ask the kind of questions victims never get answered in our traditional justice system. They had a right to know: How could this have possibly happened? What were my daughter's last words? How can we be sure you'll never harm someone else again? And as the ones truly aggrieved by Conor's crime, they deserved to be a part of fashioning the legal outcome in this case.

"OK." I took a deep breath. "I'll talk to Conor's lawyer and see if there's something that we can do."

The first words out of Conor's lawyer's mouth were not unexpected.

"Never heard of anything like it. You want us all to sit down together and figure out what should happen to Conor? *Face to face inside jail?*"

I responded that while I understood his discomfort, restorative processes are by no means unheard of. People have been doing this for millennia all around the world, and it's an idea whose time has come in the United

States. So by the end of our conversation I was a member of the defense team as the restorative justice expert. Conor's lawyer had a clear understanding that I was not a traditional defense team member, but rather held a space in the middle where I could work to meet the needs of everyone involved in this case. And Ann's parents understood that I was a member of Conor's defense team to preserve the confidentiality of the process, not because I was on "the other side."

I heard those same words—"never heard anything like it"—from the prosecutor, from jail staff, from reporters, and from community members: "Ma'am, in my twenty-six years of running this jail, I've never seen such a thing." "I would love to be a fly on the wall for that conversation." "What a remarkable idea." Each person whose approval or help I needed would stay on the phone just a few minutes longer. In those extra moments I felt hearts and minds open to a different way of doing things.

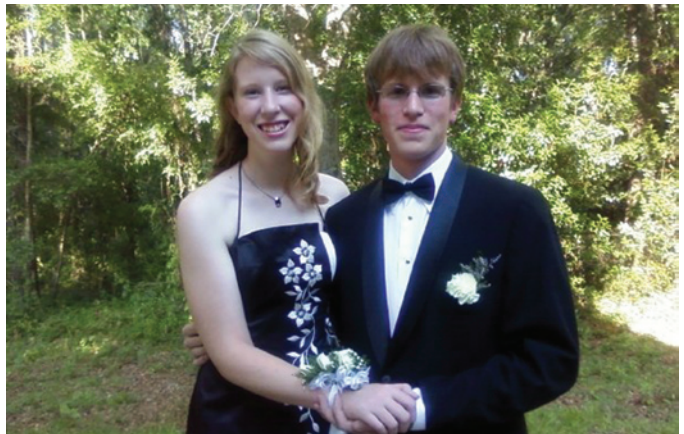
The legal vehicle for this process was the pre-plea conference. Traditionally, the pre-plea conference is a meeting between the defense attorney and the prosecutor in which plea deals get duked out. No one else, not even the defendant, is present for those meetings. Like all settlement conferences, nothing that comes out in those meetings is admissible at trial. The idea arose to have everyone be a part of that process: Conor, his parents, the Grosmaires, their priest, and the two attorneys.

I was confident about each person's capacity to bring honest feelings and realistic expectations to the process. In our weekly phone calls, Conor was consistent in his acceptance of

responsibility, and seemed deeply sincere in his desire to spend the rest of his life repaying an unpayable debt. His parents were able to hold him responsible while loving him unconditionally. Michael came to the table with a profound capacity to explore how his parenting had affected Conor. And the Grosmaires were dedicated to Ann's death being transformed into a seed of something transcendent. They were willing to participate in this process knowing that the truth of what happened that day might test their capacity to forgive. Both the defense attorney and the prosecutor needed to step out of their traditional adversarial roles. And Conor's jailers had to believe that it was safe to allow all of us to sit in a room together. At Kate Grosmaire's request, Conor was to be unshackled.

I flew in a few days before the pre-plea conference to match some faces and places to the hearts and minds I had come to love. In Tallahassee I got to know more about the one person I will never get to meet—Ann. She was revered for her great compassion towards animals. A devout Catholic, an honor student, and a stage manager with a quirky sense of humor, Ann was just becoming comfortable as an actress in her own right. She was extremely private, keeping from even her sisters—her best friends—that Conor's anger was growing out of control.

Wanting to understand the depth of the loss, I had accepted the Grosmaires' invitation to stay in their home. Some of my lawyer friends had questioned that choice, worrying about "boundaries." Kay Pranis, my mentor and friend, put it so beautifully.



*Ann and Conor posed in the Grosmaires' backyard on the day of their senior prom, May 2009.*

"Boundaries? In this work we are trying to get rid of boundaries, Sujatha. The important thing is to have a strong center, not strong boundaries."

In a tiny cinderblock room in the Leon County Jail that would hold five hours of sorrow, confessions, trauma, love, and forgiveness, we created that strong center. We draped a piece of cloth on the floor and decorated it with representations of Ann. A trophy. A box filled with notes between Ann and Conor. A rubber teething giraffe that Ann suggested to customers at the baby boutique she worked in. A plaster cast of Ann's hand made while she was lying in her hospital bed. Ann had remarkably long, delicate fingers.

Father Michael Foley, the Grosmaires' priest, opened with prayer. The prosecutor briefly summarized the charges and the facts of the case. Then, the Grosmaires shared the story of their beloved daughter—what her life had been and what her death had taken from them. Without vindictiveness, they did not spare Conor the totality of what he had done. When they finished, we listened to Ann's favorite hymn, "Angel Band," and then sat in silence for a few minutes to honor her.

All eyes turned toward Conor. I asked him to tell us, in his own words, how he'd taken Ann's life. The story was not so different from what the police had recorded in his confession. But hearing it from his mouth in the presence of Ann's parents was devastating. As Kate said in a radio interview a few months later, after Conor spoke, "we had to remind ourselves that we had forgiven him."

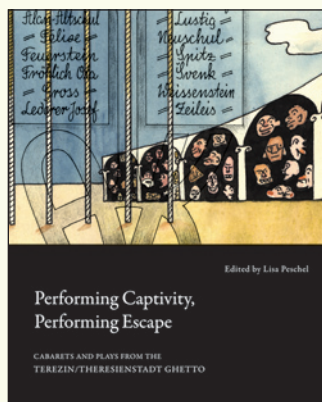
After everyone was given time to speak, we turned to the difficult question of what Conor needed to do to begin to redeem himself. There was talk of anger management and domestic violence counseling. Conor agreed to speak at high schools about teen dating violence. He also spoke of the types of volunteer work that Ann would have done had she lived; Kate told Conor he carried the burden of doing the good works of two people when he was eventually released.

The last question was by far the most challenging. How much time should Conor serve? I had asked everyone to think about this far in advance of this day. *(continued on page 64)*

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# Restorative Justice: Some Facts and History

by Marilyn Armour

*The number of people incarcerated, on parole, and on probation in the United States roughly equals the populations of Los Angeles, Chicago, and Boston combined. And then there's that extralegal prison at Guantánamo.*

**I**N THE UNITED STATES, THE CRIMINAL JUSTICE SYSTEM is undergirded by a thirty-year era of “get tough” policies that have bred high rates of recidivism, a focus on punishing lawbreaking rather than attending to the harm experienced by crime victims, and ever-increasing expenditures that exceed amounts spent on education and health in some states’ budgets.

Under the current system, over 6.7 million adults or 3.1 percent of the adult population is behind bars, on probation, or on parole. Research shows that incarceration—instead of curbing crime—makes nonviolent offenders into violent criminals and is a revolving door in and out of prison. Yet we continue to spend over \$52 billion a year on corrections. The overuse of prison and extended probation casts a long shadow that devastates families and communities throughout the country. For example, African American men are imprisoned at six times the rate for whites. This disproportionality severs offenders from their children, who become the hidden or forgotten victims of crime today and are too often the newly incarcerated tomorrow. Our criminal justice system also burdens many ex-offenders with a felony record, which robs

them of employment and leads many into homelessness, vagrancy, and future criminal behavior, in addition to robbing the state of possible income tax revenues.

This is an out-of-control system that is fed, ominously, by students who are referred to alternative education programs. In Texas alone, the 100,000 students referred to such programs annually are five times more likely to drop out than their peers in mainstream schools, making them probable candidates for the school to prison pipeline. Roughly 80 percent of prison inmates never finished high school.

As a society, we are in desperate need of a different approach to the problems created by crime and social injustice—an approach that puts energy into the future, not the past, an approach that begins with who has been hurt and what their needs may be, and finishes with giving wrongdoers a way back instead of guaranteeing them a lifetime of hardship.

## What Restorative Justice Offers

RESTORATIVE JUSTICE IS A FAST-GROWING STATE, NATIONAL, and international social movement and set of practices that aim to redirect society’s retributive response to crime. Restorative

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justice views crime not as a depersonalized breaking of the law but as a wrong against another person. It attends to the broken relationships between three players: the offender, the victim, and the community. Accordingly, restorative justice seeks to elevate the role of crime victims and community members; hold offenders directly accountable to the people they have harmed; and restore, to the extent possible, the emotional and material losses of victims by providing a range of opportunities for dialogue, negotiation, and problem solving. Moreover it views criminal acts more comprehensively than our judicial system because it recognizes how offenders harm victims, communities, and even themselves by their actions.

The ultimate aim of restorative justice is one of healing. If survivors of crimes receive appropriate emotional and material reparation, the harm can be redressed; by seeking to repair the damage caused, the offender can be reconciled with the victim and reintegrated back into his or her social and familial networks; and through such reconciliation and reintegration, community harmony has a chance to be restored. This manner of healing gives the actual victims and the community, as well as the offenders, the opportunity to take an active part in the justice process instead of a traditionally passive role.

## History and Development of the Restorative Justice Movement

RESTORATIVE JUSTICE IS A YOUNG FIELD THAT EMERGED during the 1970s as alternative approaches to the court process, such as alternative dispute resolution, were becoming a national trend. It emerged alongside the victims' rights movement, which argued for greater involvement of crime victims in the criminal justice process, as well as for the use of restitution as compensation for losses. Although many of the values, principles, and practices of restorative justice hearken back to indigenous cultures, a 1974 case in Kitchener, Ontario, is considered the beginning point of today's restorative justice movement. This "Kitchener experiment" required two teenagers to meet with and pay restitution to every one of the twenty-two people whose property they had vandalized.

From the late 1970s to the early 1980s, a number of experimental programs, modeled after the Kitchener program, were initiated in several jurisdictions in North America and Europe. These initiatives, however, remained small in size and number, having little impact on the larger system. In 1994, restorative justice took a giant step toward becoming mainstream when the American Bar Association endorsed victim-offender mediation, a program usually associated with first-time offenders and minor crimes. Additional

support came from the National Organization for Victim Assistance, which published a monograph entitled *Restorative Community Justice: A Call to Action*, and from the United Nations, the Council of Europe, and the European Union,

all of which have committed to promote restorative practices. Today, thirty states either have restorative justice principles in their mission statements and policy plans or legislation promoting a more balanced and restorative juvenile justice system. This institutionalization is further buttressed by the American Bar Association, which began offering grants in 2008 to develop restorative justice initiatives in criminal law settings.

## Core Restorative Justice Practices

THE MOST WIDELY USED APPROACHES IN RESTORATIVE justice are victim-offender mediation, family group conferencing, circles, and victim-offender dialogue. All put victims and offenders in direct dialogue, nearly always face-to-face, about a specific offense or infraction. They also have in common the presence of at least one more person who serves as the facilitator, and they usually involve advance preparation of the parties so they will know what to expect. The focus of the encounter most frequently involves naming what happened, identifying its impact, and coming to some common understanding, often including reaching agreement as to how any resultant harm will be repaired. These practices are also used in non-criminal justice settings such as schools or neighborhoods.

Victim-offender mediation is the oldest practice and is typically used with victims and offenders of property crimes and minor assaults. Participants include the victim, offender, and facilitator. The face-to-face meeting is centrally focused on the victim and the offender, accompanied by a small number of support persons (such as parents or friends).

Family group conferencing originated in New Zealand as a means of diverting young offenders from formal adjudication. It routinely involves support persons for both victims and offenders, as well as additional participants from the community. This approach emphasizes supporting offenders in taking responsibility for their actions and in changing their behaviors. Thus, the involvement of the offender's family and other support persons is critical to this approach; the offender's community of care helps build understanding and provides the opportunity for the offender to shift back from the role of offender to that of community member.

Circles are variously called "peacemaking circles," "repair of harm circles," and "sentencing circles." The numbers and types of participants are similar to those gathered for conferencing but include wider community member participation, either as interested persons, representatives of the criminal justice system, or as additional circle keepers or facilitators. Circles are more focused on the harm done to the community than the other approaches. Circles also serve to build community. Circles feature shared leadership and consensus-based decision making as core to the functioning of the group and the development of the group's process.

Victim-offender dialogue is an outgrowth of victim-offender mediation. It is used in crimes of severe (continued on page 64)

### RECOMMENDED RESOURCES

[restorativejustice.org](http://restorativejustice.org)

[iirp.edu](http://iirp.edu)

[emu.edu/cjp/restorative-justice](http://emu.edu/cjp/restorative-justice)

[cehd.umn.edu/ssw/rjp](http://cehd.umn.edu/ssw/rjp)

[irjrd.org](http://irjrd.org)

# Controversies Around Restorative Justice

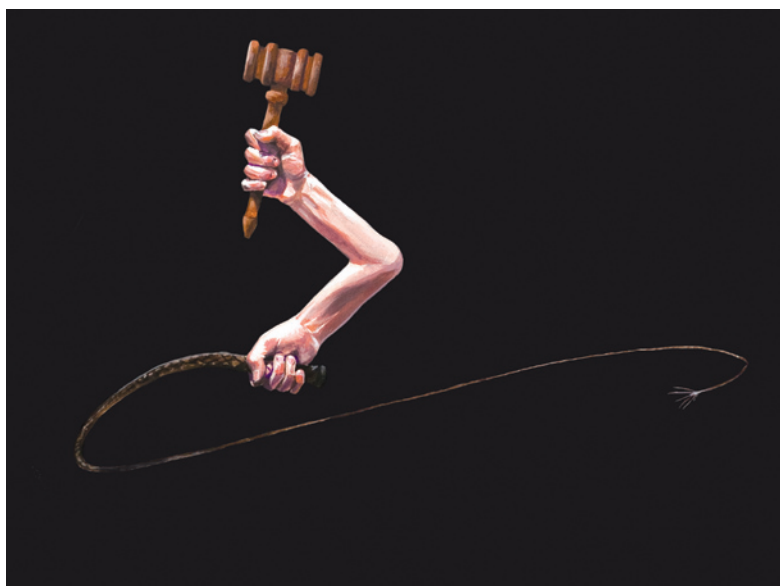
by David Belden

**R**ESTORATIVE JUSTICE IS A MOVEMENT WITH traction. People are excited by it. They are volunteering in growing numbers to make it happen. Some people are even getting paid to do it, especially in schools, and usually through nonprofits like Restorative Justice for Oakland Youth, Community Works, and the Insight Prison Project (all discussed in this issue). Marilyn Armour's article (page 25) sums up the progress so far.

Its practitioners say the movement's innovative practices have immediate benefits and radical long-term potential.

There is hope, first, that it will keep young people and especially young people of color out of the criminal justice system, out of the school-to-prison pipeline. Once that is well under way, many believe that other visions will appear possible, all the way to the end of prisons as we know them and a reconception of the entire legal system (see Peter Gabel's piece on page 18). Many hope this movement can also provide new ways of responding both to conflicts in general (Kay Pranis, page 33) and to the inherited oppressive structures of race and class (see Fania Davis's piece on page 30, Denise Breton's on page 45).

Restorative justice may be poised for a breakthrough into public awareness. It would be a boon for budget-cutting politicians and taxpayers if only the public could buy into it. For example, in the San Francisco Bay Area it costs around \$50,000 to run a juvenile offender through the justice system, not counting the cost of incarceration if there is to be any, versus about \$4,500 for a restorative process that typically leaves the victim much more satisfied, the young person reintegrated into the community *without even being charged with a crime* and much less likely to reoffend, and many community members relieved and grateful. Multiply the criminal justice cost many times for adults locked away for years.



But the rub is, punishment is nowhere seen in this process—unless, when you have harmed someone, you consider listening to them express their pain to be punishment, rather than a chance to develop empathy for them, see yourself in a different light, and learn and change in whatever way you now perceive is needed. Some consider that process tougher even than receiving punishment. Others think it's being “soft on crime.”

Can a justice movement not based on punishment grow fast enough to win at the ballot box, even in an über-liberal city? In September the *New York Times* noted that “Restorative justice has long had proponents in some corners of the criminal justice system, but it is now gaining prominence in an unlikely forum: the San Francisco district attorney's race.” We go to press too soon to know the result.

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*David Belden, D.Phil (Oxford), has been a religious worker, agnostic countercultural collectivist, novelist, carpenter, college teacher, business writer, and managing editor of Tikkun (until this April). He is currently writing about and studying restorative justice.*



*The restorative justice play Man.Alive. Stories from the Edge of Incarceration to the Flight of Imagination, featuring three formerly incarcerated individuals including Ivan Corado (right) and Reggie Daniels (center), as well as community artist Freddy Gutierrez (left), was performed widely in the San Francisco Bay Area in 2010. It was produced collaboratively by the nonprofit Community Works, the University of San Francisco, and the San Francisco Sheriff's Department.*

Or will restorative justice appeal more to small-government and traditional-values conservatives? Some of its elements do appeal to the Right, others to reformist liberals, others to radicals, including prison abolitionists. Of course, there are also elements that each of these players may dislike or hate. And no one will resist it more than the prison-industrial complex and the politicians in its pockets.

How it is presented by the media will be critical, but perhaps not decisive: it is how well it works in practice, in those places innovative enough to fund it, that will likely be decisive.

## How We Talk about Controversies

MOST ARTICLES IN THIS ISSUE COME FROM PROGRESSIVE AND radical activists, scholars, lawyers, and teachers who are writing wholly from within the restorative justice movement. We are centering their voices because it is they who have both the strongest hope for the transformative power of the movement and the most practical understanding of how the vision of restorative justice can take shape on the ground.

While most restorative justice practitioners initially seem to present a unified front, there are certainly differences among them if you listen more closely. Some authors in this issue raise controversial issues within the movement directly, others by inference only. If they criticize anyone, notice how gently they do so. The movement has only got where it has by its practitioners' commitment to reach out to the humanity in the other, to listen, to suggest and not to judge. A South Asian

Buddhist goes to a conservative Florida town to support white Christians in developing a groundbreaking restorative approach to plea bargaining in a murder case (page 22). A survivor of child abuse works with prisoners in San Quentin prison, most of them serving life sentences for violent crimes (page 35). These practitioners could not do their groundbreaking work if they allowed either left-wing or right-wing stereotypes of prosecutors, conservative Christians, or lifers to cloud their vision. That doesn't mean that restorative practitioners are blind to the realities of power and white supremacy, the legacies of genocide and slavery, the depredations of profiteers, or the violence inherent in the structure of our prison system. But their whole practice is to reach across any divide and connect, empathically.

I am writing this article from a slightly different place, as a kind of sympathetic cartographer of the movement. I have felt drawn to restorative justice since first writing about it in *Tikkun* (September/October 2009) and have started to attend trainings in the field. So with one foot planted inside the restorative justice movement as a student and the other in more journalistic territory, I am hoping to offer a different perspective: a beginner's bird's-eye glance at some of the controversial issues both outside and within the movement, and at factors that may be enabling it to gather traction. I am offering this analysis not in a spirit of divisiveness but with the genuine hope that it will help readers who have never heard of the restorative justice movement to grasp the diversity of worldviews within it and understand where opposition and support are likely to arise. It is important for those within the movement to understand ways in which restorative justice is seen by individuals and groups from different places on the political spectrum, from conservative to moderate, and liberal to radical.

## Conservative Reactions to Restorative Justice

ONCE RESTORATIVE JUSTICE BECOMES A WELL-KNOWN POLICY option, I assume that small-government conservatives will welcome the budget savings and tax relief, provided they can be convinced that diversions from prison are not dangerous to society. The remarkable experience of New Zealand, which for over twenty years has run its entire juvenile justice system on restorative principles, and has closed its juvenile detention centers, should reassure them. As this experience is not well known in the United States, we are delighted to share an excellent survey of it by one its leading proponents, Judge Fred McElrea, as an online-only article accompanying this print issue.

**NOT JUST ILLUSTRATIONS:** The paintings on pages 20, 25, 27, 29, and 43 come from *The Knotted Line*, a participatory, internet-based project investigating the history and future of incarceration and its relationship to education and labor in the United States from 1495–2025. *The Knotted Line* weaves together a dynamic, narrative painting of over seventy-five historical moments. Its evolving online interface will also enable visitors to learn and add to the history, as well as share their personal experiences related to incarceration. When completed in the spring of 2012, *The Knotted Line* will also include a book version and free curricula for high school classes and community organizations. All of the paintings are created by Evan Bissell. For more information on the artist or project, visit [www.evanbissell.com](http://www.evanbissell.com) or [www.theknottedline.us](http://www.theknottedline.us).

Many social conservatives, especially of a traditional Christian bent, already warm to the notion of bringing offenders to a point of remorse and genuine accountability, and then to redemption, a true change of heart. Chuck Colson, one of the players in the Watergate scandal (long since reformed as a born-again Christian), is considered by many to be America's leading prison reformer as well as one of its leading Christian conservatives. Excoriating overcrowding and inhuman conditions, Colson signs on to a faith-based strand of restorative justice.

However, the centrality of religious conversion to Colson's version of restorative justice presents a concern for the mainstream movement. Further, conservative philosophy typically blames the individual's sinful human nature rather than environmental factors in generating crime. Mainstream restorative justice operates from a different model. It is based neither on a medical model of the pathology of the offender, nor on a Christian model of the offender's sinful nature and dependence on a Higher Power. Instead, a model of mainstream restorative justice is more likely to include concepts such as mutuality, respect, active listening, empathy for ourselves and those we have harmed or been harmed by, a focus on self-empowerment and attendance to the deeper needs of those involved, and the questioning and unlearning of prevailing punitive belief systems. For instance, the behavioral changes noted in violent men through mainstream restorative practices typically result from their coming to understand how they developed strategies to survive child abuse, poverty, racism, police brutality, or other environmental stresses and bought into the prevailing "male role belief system"; from this understanding, as well as from the care of peers and facilitators, flows empathy for their younger selves and then for their victims. The hope of many restorative justice practitioners is that such transformed men (and women) will become participants in reforming the social conditions and inequities that so restricted their options, in addition to practicing emotional maturity in their daily relationships.

Many Christians find this development of empathy and social responsibility entirely compatible with Christianity, whether it involves Christian belief or not, but this is not the typical Christian conservative view. However, to an observer like me, both Colsonesque and mainstream restorative justice seem to have much in common—both believe in the individual's ability to change. As more violent offenders transform themselves through both paths and meet and talk, I assume there will be cross-fertilization.



Still, many conservatives who do believe in redemption see it as entirely compatible with punishment. Anyone harmed by crime is likely to feel colossal anger and so traditional notions of "an eye for an eye" will always have great appeal, especially if no mechanisms exist for satisfying the victim's needs for empathy, answers, or restoration. If restorative options start to divert large numbers from prison, conservative investors in the prison-industrial complex will surely mobilize to protect their investment. They are likely to fund emotive appeals for punishment, many of them in traditional (and selective) biblical terms, and possibly with racist overtones.

The essence of mainstream restorative justice is a practice of listening and empathy that is by nature corrosive of ideology and self-righteousness. Thus, combining thorough personal accountability with an *understanding of the ways one's environment has*

*molded one* is a complex task, not easily assimilated into some conservatives' worldview. But that may change.

## Middle America's Reactions to Restorative Justice

ON BALANCE, I ASSUME THAT MOST HARDCORE CONSERVATIVES will not go for mainstream restorative justice. However, many middle-of-the-road people, including many evangelical Christians, may well support it when they see how well it works for crime victims they know and for any of their own relatives and friends who are arrested for offenses. In a recent case it was remarkable how quickly some police families came around to wanting a restorative justice option when one of their own kids was caught in a possible offense. If approval grows in middle America, it will mainly be because of positive personal experiences that will contradict the media stereotypes and polemics approving punitive justice.

## Liberal Reactions to Restorative Justice

THE APPEAL FOR LIBERALS MAY BE OBVIOUS: TAKE BETTER care of victims; drastically reduce the prison system; spend the money on education and public aid instead; reject ugly emotions of revenge; and reintegrate offenders into the community where they can lead productive lives and pay taxes.

But what would liberals make of Peter Gabel's vision of an astonishingly different kind of legal system? Some might feel that's going too far. That's to admit that fear of the other has been central to the liberal project all along. That's to allow that the vaunted rationality of liberalism never has been free of emotion, but has too often been put to *(continued on page 65)*

# What's Love Got to Do with It?

by Fania E. Davis

**D**R. MARTIN LUTHER KING JR. DEFINES JUSTICE as “love correcting that which revolts against love.”

Dr. King made this visionary and audacious declaration at the first mass meeting of the Montgomery Improvement Association at the Holt Street Baptist Church on December 5, 1955, just days after the arrest of Rosa Parks. It was the meeting where Rev. Ralph Abernathy put forward the resolution to initiate the Montgomery bus boycott. The church was located in a black working-class section of the city. Both the sanctuary and the basement auditorium were filled, and an overflow crowd outside listened via loudspeakers. Many reporters, photographers, television crews, and black leaders were present. The meeting opened with two hymns, “Onward Christian Soldiers” and “Leaning on the Everlasting Arms.”

King then delivered an address that included this definition of justice as love correcting that which revolts against love. He later recalled his thoughts before the address:

How could I make a speech that would be militant enough to keep my people aroused to positive action and yet moderate enough to keep this fervor within controllable and Christian bounds? I knew that many of the Negro people were victims of bitterness that could easily rise to flood proportions. What could I say to keep them courageous and prepared for positive action and yet devoid of hate and resentment? Could the militant and the moderate be combined in a single speech?

Is Dr. King’s definition of justice context-bound? Or is it a universal definition of justice that withstands the test of time? Is it relevant today, or is it bound by the particulars of place and circumstance?

At first blush, on a personal level, this definition of justice bears no resemblance to the justice I pursued in my lifetime as

an activist and civil rights lawyer. Love seems to have had little to do with my warrior-activist pursuits, whether as a militant black student fighting against racism and in support of the Black Panthers in the 1960s, or as a socialist fighting the evils of capitalism, or as a black woman fighting to save my sister

Angela Davis from a legal lynching based upon fabricated charges of murder and conspiracy to murder a Marin County judge in the 1970s.

We were at war. Our relentless pursuit of social, racial, and economic justice in those days had nothing to do with love. It was us versus them. Or so it seemed.

And this continued through the 1980s after I became a civil rights lawyer fighting all-out civil rights wars in the courtroom against employers and on behalf of clients who were victims of employment discrimination.

What does love have to do with the hypermasculinist, hyperrational, aggressive, warrior-like personal qualities I was compelled to cultivate in order to be successful in these pursuits?



*For the restorative justice movement to grow strong, it must recall its past, like the Sankofa bird.*

## The New Jim Crow

MOVING TO THE PRESENT DAY, THIS DEFINITION of justice as love correcting that which

revolts against love appears to have little to do with our existing horrific and retributive paradigm of criminal justice. It has little to do with our rapidly expanding—or more appropriately, metastasizing—prison industrial complex, which has trapped the largest number of prisoners in the history of humanity. It has little to do with the death penalty or with the recent execution of Troy Davis. Nor, for that matter, with the execution of Lawrence Russell Brewer, a white man executed in Texas on the same day as Troy Davis, for the hate crime of dragging to death a black man, James Byrd, thirteen years ago.

It has little to do with the appallingly racialized justice described by civil rights advocate and litigator Michelle Alexander in *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. She tells us that today, more African

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*The Healing Walls project brought together men in a Pennsylvania state prison, their loved ones, crime survivors, and victims' advocates to explore the complicated journey of dealing with the aftermath of violence. Healing Walls: Inmates' Journey (on this Tikkun issue's cover) deals with feelings of remorse and atonement for crimes committed. Healing Walls: Victims' Journey (above) focuses on the absence of loved ones and changes in identity that survivors of crimes experience. The complex and at times difficult dialogue that evolved in the process was captured in an independent movie, Concrete, Steel, and Paint.*

Americans are incarcerated, or on probation or parole, than were enslaved before the Civil War began. And that, as of 2004, more African American men were disenfranchised (due to felon disenfranchisement laws) than in 1870, the year the Fifteenth Amendment was ratified, guaranteeing black males the right to vote. A black child born today is less likely to be raised by both parents than a black child born during slavery. And Alexander teaches that the recent disintegration of African American families and communities is due in large part to the mass imprisonment of black parents and their children and the constant cycling from their communities to prisons and back again.

Further, a large majority of African American men in some urban areas have been labeled felons for life (nearly 80 percent in the Chicago area) and are part of a growing undercaste permanently relegated by law to a second-class status. They can be denied the right to vote, automatically excluded from juries, and legally discriminated against in employment, housing, access to education, and public benefits, much as their grandparents and great-grandparents were during the Jim Crow era.

What does love have to do with this searing and heartrending picture of the justice we know today?

## A Lofty but Utopian Vision?

ARE WE THEN TO CONCLUDE THAT DR. KING'S DEFINITION of justice as love correcting that which revolts against love is a lofty but ephemeral and utopian vision, bearing little relationship to the way things are? A time-bound definition that is not true for us today?

Addressing this first on a personal level, about fifteen years ago, I reached a point in my life as warrior-lawyer-activist when I became so burnt out and starved for spiritual sustenance that, through a series of synchronistic events, I ended up shutting down my law office and then found myself apprenticing to a South African traditional healer. Intuitively, I realized I was out of balance and needed an infusion of more feminine, healing, and spiritual energies in my life to re-equilibrate. Thus I imagined I would never return to the law and to the hyperrational, hypermasculinist, bellicose qualities I was required to cultivate as a trial lawyer.

But after receiving my Ph.D. in African Indigenous studies, I started practicing law again by default because I could not find any way to do this healing work on a remunerative basis. However, with the experiences in Africa, I was beginning to sense that law and spirituality, and justice and love, are not the polar, irreconcilable opposites I once conceived them to



*Fania E. Davis (at right) engages with students at Restorative Justice for Oakland Youth's Castlemont Peacebuilding Academy, summer 2011.*

be. I could be a lawyer *and* a healer—a healer of the social body.

Dr. King's definition of justice actually foresaw and prophesied this shift in my personal journey. But the shift that Dr. King foretold is not at all limited to my own story of transformation; it is the story of the evolution of justice itself.

In the last three-and-a-half decades, a new paradigm of justice has emerged on the historical stage—a justice that seeks not to punish, but to heal. A justice that is not about getting even, but about getting well. A justice that seeks to transform broken lives, relationships, and communities rather than damage them further. A justice that seeks reconciliation rather than a deepening of conflict. A justice that seeks to make right the wrong rather than adding to the original wrong. A healing justice rather than punishing justice. A restorative justice rather than retributive justice. This new but ancient justice is none other than love correcting that which revolts against love.

Not long after I re-entered the practice of law after returning from Africa, I learned about restorative justice from Ronnie Earle, former District Attorney for Travis County (Austin) Texas, at a retreat with Peter Gabel and the Project on Integrating Spirituality, Law, and Politics. Listening to Ronnie provoked an epiphany and marked a climax in my own years-long movement toward wholeness, integrating the warrior, healer, and lawyer within me. Now I could be all these things at once. This led me to co-create Restorative Justice for Oakland Youth in 2005. Our mission is to promote a cultural shift from punitive responses to youthful wrongdoing that add to harm to restorative responses that heal and repair it.

## Restorative Justice's Promise

AS THE LATE CULTURAL HISTORIAN THOMAS BERRY NOTED, if we are to move into a viable future, we must re-invent what it means to be human. That is our historical imperative. Ultimately, I think restorative justice can help midwife a

new evolutionary shift of the species into what Berry calls the Ecozoic Era: an era in which humans will no longer be entranced with ways of being and thinking that create domination, discord, and devastation, but will be present upon the earth in mutually enhancing ways—ways that bring about healing and wholeness and holiness with one another and with all of creation. My dream is that restorative justice might help move us from an ethic of separation, domination, and extreme individualism to an ethic of collaboration, partnership, and interrelatedness. In this sense, I would say this movement is more subversive than any of the revolutionary movements in which I have been involved since the 1950s. All previous social justice movements have kept us trapped in discordant, binary, either-or, right-wrong, and us-versus-them ways of being present to one another and to the earth.

On the civil rights plane, restorative justice also has remarkable potential to push back the New Jim Crow of mass incarceration which, due in no small part to Michelle Alexander's ground-breaking work, is increasingly being recognized as the major human rights challenge of our era.

## Pitfalls

HAVING DONE THIS WORK NOW FOR SEVERAL YEARS, however, I have observed that we are generally perceived as—and too often behave as—a white movement. This is an enormous challenge, raising grave questions as it does about our future as a movement and about our ability to fulfill its extraordinary promise. We clearly have what it takes on technical levels to offer effective and healing alternatives to racialized mass incarceration. The question is whether our movement has the will to meet this historic challenge.

If you google restorative justice and race you will find little or nothing. There is a wonderful blossoming and veritable creative explosion of essays, books, and articles written on restorative justice in the last two-and-a-half decades, but not even a handful address race, or the Civil Rights



Movement and restorative justice, or mass incarceration and restorative justice, or disproportionate minority contact—the overrepresentation of youth of color in the juvenile justice system—and restorative justice.

I believe we have not learned from the history of the peace, women's, and environmental movements' initial failures to intentionally engage issues of race. I believe we have forgotten our recent historical roots. We have forgotten who we are. Restorative justice is an heir not only to the victim's rights, feminist, mediation, prison abolitionist, and Mennonite

movements, but it also has its spiritual roots in the Civil Rights Movement—in nonviolence, ahimsa, satyagraha, truth-telling, engaging the enemy with compassion, consistent with Dr. King's and Mahatma Gandhi's visions of justice. While several historical antecedents converged to give rise to the restorative justice movement, the Civil Rights Movement was a principal contributor, having a defining impact on its thrust and spirit.

Dr. King's definition of justice foreshadows restorative justice. His core vision of creating the beloved community is closely akin to the relationship and *(continued on page 68)*

# The Restorative Impulse

by Kay Pranis

**I** BELIEVE THAT THE RESTORATIVE JUSTICE MOVEMENT is a manifestation of something much larger than itself: a fundamental shift in how Western culture understands the nature of our species and the nature of the universe.

Assumptions about human nature and the universe underlie all our social institutions and all of our relationships—with self, with others, with the natural world. These assumptions shape the actions we take each day in the context of institutions such as our families, faith communities, neighborhoods, workplaces, schools, social services, and justice systems.

My friend Howard Vogel, who teaches at Hamline Law School, talks about the “restorative impulse.” This term may be more helpful than the term “restorative justice.” As my work has evolved, the scope and depth of change required for a shift toward a restorative impulse in all situations seems greater and greater. Restorative justice was never about crime for me. It was always about community and how we live with one another. However, I did not understand at the beginning how much we had to change our worldview to shift how we respond to things that go wrong.

It has taken years for some of that worldview shift to seep into my understanding—and I am deeply grateful to Native American and First Nations teachers, especially Mark Wedge, Harold Gatensby, and Yako Tahnahga, as well as Pema Chodron from the Buddhist tradition, for opening my heart



Half-Surrender by Kinnari Sutariya. Acrylic.

and mind to other ways of relating to the universe. And I am very grateful to modern physics and biology for helping me understand how we can integrate those spiritual understandings with modern society.

I want to note here that the spiritual teachings I am talking about are not dogma. I don't believe in any particular spiritual tradition. The concept of a Higher Being does not work for me, but I find a set of core values infusing most spiritual traditions that are the same as the values I see underlying the restorative impulse. These are the values that describe how to be in good relationship with one another. So spirituality is one

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*Kay Pranis is an independent trainer in restorative justice and peacemaking circles. She was formerly the restorative justice planner for the Minnesota Department of Corrections. She has coauthored several books on circles.*

of the ways people can relate to the restorative impulse and find motivation to act on that impulse. And there is a lot of life wisdom in many spiritual teachings.

An important shift in worldview that could move us toward daily use of the restorative impulse is the shift from seeing the parts of the universe as distinctly separate to the understanding that we are profoundly connected to every one and every thing in the universe. That means that what happens to any part of the universe will affect me—including anything I do to another part of the universe. It also means we cannot drop out, kick out, or get rid of anything. We must deal with one another and with our environment. From this worldview “getting rid of” is *never* a solution because we are never really rid of anything—we are always still connected. When we think we are not connected, we are often not paying attention to how the connection is impacting us.

The analogy of garbage and the environmental movement helps me understand this idea. Not that many decades ago, we “threw things away”—like tossing a bottle out the car window—and genuinely thought we had gotten rid of it and it was no longer a problem. It turned out that the places to which we were “throwing things away” were poisoning our groundwater and our soil. As one person said to me, “What we have learned is there is no ‘away.’”



*The sign on the cage in this painting, Deep Sense of Need by incarcerated artist Bryan Picken reads, “For Disposal.” This acrylic painting and the art on pages 33, 35, and 38 all come out of the Michigan-based Prison Creative Arts Project.*

Our social structures still operate as if there is an “away.” Our solution to many problems in relationships is to “get rid of.” We try to get rid of the difficult employee, we expel kids from school, we send people to prison, we cut ourselves off from those with whom we have conflict, or we move out of the “bad” neighborhood. We do all of this without looking at the systemic structure that is involved in the problem behavior. We take these actions without looking at our own part in the dysfunction. And we pretend that this solution does no harm to us. The restorative impulse requires us to look at the context of the situation, to look at our own role in harmful behavior, and to recognize that harm to anyone else is harm to us as well.

The emphasis on interconnectedness is not unique to restorative justice. There are countless other movements or initiatives for peace and nonviolence that come from the same philosophy. A contribution of the restorative justice movement is that it came with specific processes that help us to turn the philosophy into action. And it can be applied to daily life, so we get constant opportunities to practice a different way of being with one another when harm happens between us. Restorative justice turns out to be very practical as a way to promote a fundamental shift, even though it sometimes requires us to turn our habits upside down.

Another important concept of restorative justice is non-domination. The practices of restorative justice require an equal voice for all stakeholders. If you are affected by a decision, you get to be part of that decision. Decisions are made by consensus in restorative practices so one interest cannot simply be run over by another interest with a larger number of participants. In a restorative approach, we practice democracy in a fundamental way.

The use of restorative practices is currently only on the margins, but the growth is steady, especially in schools. The vision of interconnectedness and non-domination is a very powerful vision. The power of that vision, combined with the practicality of restorative practices, has enormous potential to move Western culture through a paradigm shift. Western science suggests that interconnectedness and nonhierarchical self-organization are the scientific nature of the universe. The paradigm shift represented by restorative justice is consistent with emerging science.

Human beings are genetically bound to community in some form. We evolved in community. We are programmed genetically for collective survival rather than individual survival. We need others. Current Western culture thwarts that need in many ways. There is a deep human yearning for connection and community. Restorative practices offer a pathway for shifting social structures to be more responsive to that need.

The fear of not belonging and the pain of feeling that one doesn’t belong are at the root of much violence and harm in the world. Living as if everyone belongs might be the biggest violence prevention measure we could ever devise. ■

# Healing from Harm and Unlearning Violence

by Sonya Shah

“JUST WANT TO KNOW,” MACK PAUSED AND TOOK A moment to ask what was in his heart, “how do I live with the stigma of being a murderer?” Mack was on the brink of tears. His face was red with vulnerability. Serving twenty-five to life, this man in his mid thirties was participating in a dialogue between victims and offenders at San Quentin State Prison in California. He had just finished revealing the details of his crime thirteen years earlier and was left with more truthful questions about the meaning of his life.

On the surface, Mack had just “taken accountability” for the violence he had committed. But in the deeper poetry of accountability, Mack held the pieces of his life in his hands, felt each for texture, and placed them on the table. Then, in the nakedness of truth, he began the painful journey of fitting them together until the real picture of his life unfolded in a circle of ten incarcerated men, three facilitators, and three victims of violent crimes in the room.

In this exercise, offenders meet with “surrogate” victims—real victims, but of harm caused by other offenders. I was one of three victims serving a surrogate role. Before Mack spoke, I had just finished explaining how childhood sexual abuse had stunted my emotional development. I talked about the years I had spent unlearning patterns I had adopted at age six for survival, and the grueling process of learning new patterns in my twenties and thirties. I told the group I still have trouble trusting men; that I still shove my feelings inside and, like an untended pressure cooker, I explode periodically onto the closest bystander, an emotional event that has cost me many meaningful relationships.

## Offenders and Victims Talk Face-to-Face

FOR MANY, THE MOMENT WHEN A VICTIM AND AN OFFENDER come together is a peak moment of a restorative process. This is the moment when the victims express how they were harmed and what they need today and the offenders take accountability for their crimes. But what is all of the



Perpetuation by Darius White. Prisma Pencil.

“invisible” work that comes before this moment? For me it’s a commitment to confronting negative behaviors and stunted emotional growth that originated in my childhood. And for the “offenders”— what does it take for them to truly articulate their crime and its impact? What does it mean to make accountability not a buzzword but a solid foundation for a life path? Can one engage in processes of accountability *without healing*, and shouldn’t they be connected?

True accountability can’t be faked. True accountability requires an offender to commit to entering those deep, dark, scary, shut-down places and attempt to heal. Healing is hard work. There is nothing easy about finding a new relationship to unresolved trauma in one’s life. There is nothing easy about picking apart how exactly one is locked into the emotions and thinking of a child. There is no simple or singular way out of feelings of shame and humiliation from childhood experiences of abuse or poverty. And for some offenders, what does it take to confront the structural oppression and the historical legacy of colonialism, slavery, immigration, war, or genocide that are lodged in their bodies?

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Members of a Victim Offender Education Group graduating class of 2010 in San Quentin prison pose with facilitators Rochelle Edwards (at front), Jaimee Karroll (at back), and Jack Dison (far left).

When offenders can see how all of the pieces of their past fit together, they can connect the dots of their life that led up to a crime and experience accountability in a deeply embodied way. There is a saying in this work: “the only way out is through.” It means the way to self-liberation, the way to hold the stigma of murder, to reclaim one’s rightful place in humanity, to repair relationship to community, is to commit to “doing the work” of healing. In restorative justice, we need to embrace all of the important restorative processes—in particular the lifelong work of healing that victims, offenders, and people in the community need to undertake in order to repair.

## The Process of Unlearning Violence

A YEAR LATER, I AM A VOLUNTEER FACILITATOR IN THE VICTIM Offender Education Group program at San Quentin, the same program where I sat as a surrogate victim. The program was founded by Rochelle Edwards based on the work of David Doerfler, and is heavily influenced by the principles of restorative justice. It is a twelve-to-eighteen-month program that is spreading: five classes are offered in San Quentin, which is an all-male prison, and 125 men are on the waiting list there. The program is reaching prisons in Dublin and Alameda, and working with post-release programs such as Homeboys in Los Angeles. This is thanks to the tireless work of Edwards and the staff of Insight Prison Project, the nonprofit that houses the Victim Offender Education Group.

I often step back and ask myself why programs like the Victim Offender Education Group or the Resolve to Stop the Violence Program in San Francisco are successful. What makes these models, above others, work? In my heart there is also “the other” questions. The questions that we as a society are dying to know because our humanity depends on it: If “violence is learned and can be unlearned,” how do we know when someone has changed? How do we know when someone is no longer violent? What is the evidence? How does someone transform, exactly?

Periodically I study the literature on violence and its causes with the excuse of presenting it to my undergraduate students. I review James Gilligan’s work around shame and humiliation; I look at the complex sociopolitical and historical patterns of different genocides. But mostly I pay attention to the men at San Quentin: I listen to what they say in trainings, graduations, and in my class; I talk with my co-facilitator, Jaimee Karroll; and I write down the words of wisdom that the men at San Quentin, Edwards, Karroll, and other facilitators say in passing. Their anecdotes are precious evidence of transformation and how it occurs as a real process of liberation from violence.

The other day I went to an information session for the Victim Offender Education Group. Edwards stepped up to the microphone in the San Quentin Catholic Chapel and rattled off a list of “evidence” of transformation to a room full of more than one hundred men waiting to get into the program. The evidence, although delivered casually, is teased out of an assessment that the Insight Prison Project is conducting of its programming and impact. Below is the gist of some of Edwards’s comments (*italicized*), followed by my own observations:

After attending the Victim Offender Education Group, the men in the program report:

1. *A decrease in violent or negative behavior.* This is perhaps the most significant, tangible, and commonly heard evidence. I heard a story at the program’s graduation a few months ago that captured this. The graduate said, “Yesterday a man on the yard came up behind me and smacked me on the back of the head with a few rolled up sheets of paper. Then let me tell you where my mind went—it went to taking a baseball bat and beating him up. But that isn’t what I did. I walked away, man; I just walked away.”

2. *The ability to connect the dots of their life to the day of their crime.* At a training session for outside facilitators, one of the program's inmate facilitators captured it in a way no one else could: "How did I go from being a boy who wouldn't step on an ant to a gun-toting gang banger? In this program I was able to retrace my steps, learn, and apply the tools to process that."
3. *A real connection to one's emotional self.* At that same training session, another man said: "When I came to the program I was skeptical. I am an intellectual and not in touch with my emotions. But people said to me—if you want to go home, you have to go to the Victim Offender Education Group. I had to know my emotional side. I know stuff about everything else but not me. In the program, I learned about me."
4. *An increase in thinking critically.* Critical thinking and critical self-reflection are important mechanisms the men in this program learn to build into any moment in which they are triggered by someone else's actions or behaviors. By creating the reflective space to step back, step away, or go talk to a friend, a man can move away from engaging in a violent incident to "checking in with himself," meaning processing on an emotional, intellectual, cultural, or historical level why he was triggered.
5. *Recognition that anger is not a primary emotion but a secondary emotion.* Once a man recognizes he is getting angry, he can look for the feelings behind the anger to primary emotions such as fear or hurt.
6. *An increase in empathy.* At the program's graduation, a man said, "In my family we shed blood before we shed tears. Not only did I learn how to cry in this group, I couldn't stop crying when I heard the other brothers in the group tell their stories." Once he developed compassion for himself, he was able to develop empathy and compassion for others.
7. *A better understanding of the body-mind connection.* Another inmate co-facilitator commented, "Mind-body connection is paying close attention to one's experience in the moment without the mind judging or evaluating that experience. It has a lot to do with redirecting the activity of the mind to feeling bodily sensations." (continued on page 69)

# A New Vision for Correctional Officers

by Sunny Schwartz and Leslie Levitas

**I**NCARCERATION HAS BEEN FAILING FOR DECADES AS A means for promoting public safety. More often than not, the finger is pointed at the unreformed inmate as the source of that failure. What about those who work in prisons and jails? What responsibility do they bear for promoting real change that reduces crime and restores communities? What difference could they make if they were trained in the basic principles of human relations, business management, and motivational change, not to mention restorative justice?

In this article we share our experience, as longtime developers of restorative practices in a San Francisco County Jail, of the deputized staff who have assisted in bringing about

a new vision. We honor the courage of those mavericks, and acknowledge the desire of many more to be a part of that vision. We recognize how a profession that is unavoidably brutal can, with the right institutional leadership, encouragement, and training, take steps toward becoming the noble vocation that many correctional officers long for it to be.

We have known decent, smart, and compassionate people who have worked as deputies or correctional officers. If that surprises you, you may be prejudiced. But you would not be alone, because the nature of the prison system encourages each of us to take sides and dehumanize everyone on the other side. The most inspiring people behind the clanging doors of jail and prison are those individuals—whether wearing prisoners'

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fatigues, law enforcement uniforms, or civilian clothes—who resist that temptation and, in doing so, help to build humanity where it is in short supply.

## How Prisons Fail Correctional Officers

LET'S BE CLEAR, THERE IS NOTHING ENNOBLING ABOUT OUR current prison system. The traditional way of incarcerating and releasing people is a “crime after crime.” Most members of the general public now know what industry insiders have known for forty years. In the typical jail or prison, men or women sleep in their bunks, play dominoes and cards, watch *The Jerry Springer Show* on TV, and scheme. About two-thirds of those released are rearrested within three years. The corrections system has failed the victims of crime and our communities’ needs and expectations. It has failed the people inside, and their families. What many of us do not yet realize is that the system has also failed the professionals who run it.

For sure, deputy sheriffs (or “deputies”) who work in county jails and prison custody staff (commonly referred to as correctional or corrections officers, COs, or sworn staff) have careers that appear attractive and are lucrative. They are paid to attend a mandatory four-to-six-month pre-employment training/academy. They begin their careers free of student loan debt. Many undergrads would envy that, along with the starting base salary between \$45,000 and \$65,000, an extensive benefit plan and defined-benefit pension that

provides for retirement at age fifty-five with 85 percent of salary for life.

But the content of the standard training does not adequately prepare them for the realities they face on the job or the highly stressful and inhumane things they are asked to do. Occupational stress is a pervasive problem within all correctional jurisdictions. Deputies and corrections officers face the daily challenges of effectively managing the inmate population as well as their own stress levels.

A correctional officer’s life expectancy is heartbreaking. On a national level, according to the Correctional Peace Officers Foundation project statistics published in 2004, there were thirty-nine deaths in the line of duty in the four years preceding the report. The suicide rate for corrections has been recorded as 39 percent higher than that of other professions (Archives of Suicide Research, 1997). The Society of Actuaries reported in 1994 that Corrections Officers had the second highest mortality rate of all occupations. The Metropolitan Life Actuary Statistics reported in 1998 that the average life expectancy of a corrections officer is fifty-eight.

Our goal for the sworn staff is not just to reduce this stress level by developing more collaborative and humane ways to manage prisons. It is to give them a positive role in creating better communities in the low-income locales from which most inmates come, and from which many of sworn staff also come. We envisage a future in which restorative justice spreads nationally and prisons are drastically reduced in number, but in which the sworn staff are partners in this vital approach, utilizing their experience in holding people accountable, in combination with restorative practices, thereby gaining the respect of all segments of the community.

## Corrections Staff Training for the Monster Factory

WHAT GOES THROUGH THE MINDS OF THE DEPUTY SHERIFFS and corrections officers as they enter the jail to start their shift? It may be the pride that comes with a career in public service. Or it may be fear of real and valid threats to the safety of themselves and their co-workers. It may be the thought of eight hours doing a job that has elements of boredom and repetition. It may be the frustration and disgust of seeing the same individuals returning to custody year after year, each time looking and acting the worse for the wear.

From day one, the typical training to become a sworn officer focuses on learning defensive tactics, crowd control, and physical take-downs. There is minimal, if any, discussion of the psychology of inmate populations from a humanistic perspective, and little light is shed on the pathways into the criminal justice system. The core curriculum does not cover issues related to the complex socioeconomic backgrounds of their charges. The required classes to work in a jail make no mention of restorative justice or other vehicles of hope for change.

Furthermore, all of the training to work in this area reinforces an us-them mentality that these professionals



*A prisoner paints a guard: Someone Cares, by Paul Bruton. Acrylic.*

learn early in their training: “We” (sworn staff) are the good guys, and “they” (the inmates) are the bad guys. “They” (the prisoners) are the worst dregs of humanity, the underbelly of our communities who have histories of hurting people, including us, and who are destined to hurt our families when they get out.

The professional program staff and volunteers who provide a range of educational, restorative social programs for inmates are often considered to be more a part of the “they” than the “we”: they may be seen as “bleeding heart liberals,” lazy, protected by the sworn staff, useless (because the inmates are seen as unable to change—“once a criminal always a criminal”), expensive to the taxpayer, and even colluding with inmates. Program staff may be seen as offering a community-college-level education free to criminals—an education that the sworn staff have to pay for their own children to receive.

As with any culture that you become a part of, whether the most progressive or the most conservative, you are expected to uphold the tenets and ideology of that culture. Members of the law enforcement culture develop a brotherhood/sisterhood that carries a fierce loyalty and mutual respect that enable them to function in the adversarial, difficult, and at times dangerous conditions of the jail. It is likened to being in the foxhole together during times of war.

But there is a backlash to the group mentality: it often results in members of the group succumbing to peer pressure, secrecy, collusion, and the infliction of cruelty. We must not forget the 1971 Stanford Prison Experiment, led by professor Philip Zimbardo and others, which demonstrated a classic abuse of power by ordinary citizens. A group of students were randomly divided into prisoners and guards and relegated to a mock prison in the basement of the Stanford Psychology Building. Those in the role of “guards” took their authority to extremes, including enlisting some of the “prisoners” to assist in psychologically torturing others. These were not “bad people,” they were educated people placed in an inhumanly unequal and oppositional system that is hard to withstand.

## A Different Way of Doing Business

OVER 50,000 ARRESTED OR CHARGED INDIVIDUALS GO through our revolving jail doors each year in the city and county of San Francisco. The men and women behind bars here, like those incarcerated across the country, have been abandoned to society’s scrap heap. Those who committed crimes not only hurt their victims, they also hurt themselves, their own families, and their communities. Many of them have suffered violence and abuse as children and their crimes only perpetuate the cycle of violence. As adults, they have violated the public’s trust and many people want them locked away for a long time, even in the relatively forgiving environment of San Francisco. But most prisoners will eventually be back on the streets, so it is essential that they are released with the skills to lead a better life.

Time in jail or prison provides a break from the chaos of dysfunctional lives and the cycles of insanity so an inmate can

reflect on past behavior or gain skills for the future. When this time is enhanced with evidence-based treatment programs and educational services, it has the potential to dramatically change a person’s life for the better, interrupting the cycle of crime that can affect generations to come.

Drawing on this perspective, in 1990 the San Francisco Sheriff’s Department opened its first program facility where, in professor Linda Zupan’s words, “a new generation of jail management” existed. A new architecture promoted civil and humane management. Equally important was redesigning the selection, training, and management of jail staff. Starting with leadership: a civilian (who was himself an ex-offender) was appointed as the overall facility director with responsibility similar to any prison warden. Being an ex-felon is not a prerequisite for this job, but having the backbone and the belief in people’s ability to change is fundamental.

He chose to institute policies that were more integrative and inclusive of all staff, which resulted in collaborations between sworn and civilian staff, better officer safety, and an eye on reducing the recidivism. Civilian staff were cross-trained in fundamental safety and security measures, while correctional officers were cross-trained in programmatic content and delivery of services. Essential to the success of this was the partnership of a high-ranking sworn officer who led by example and inspired the ranks to buy into a concept that went counter to everything they had learned before about how to do their jobs.

We designed a comprehensive implementation program that set out clear goals and ways to measure success. We asked how helpful each program was to both prisoners and staff, and brought program staff and custody staff into each others’ meetings so that they shared responsibility for each others’ tasks. We designed various methods to keep open lines of communication and to emphasize at every opportunity the shared mission of both staffs.

We brought the elephant into the room by stating clearly what everyone had been expected to believe, naming all the misconceptions and stereotypes that sworn and program staff had about each other and about the prisoners. We stated that our goal was to create a professional environment free from misconceptions and stereotypes. Our challenge was, “Imagine yourself as an agent of change” and, “Remember: resources are not the problem, lack of commitment and leadership is!”

The San Francisco Sheriff’s Department implemented programs at this facility that addressed the issues needed to get people out of their lives of crime: deficits in education and literacy; comprehensive family services including reunification, when appropriate, and expanded visitation while in custody; violence prevention; relapse prevention; and job training and vocational readiness, to name a few.

## How It Has Worked for the Sworn Staff

THE SUCCESS WAS OVERWHELMING, WITH RECIDIVISM RATES going down and in-jail violence significantly reduced. Deputies who worked in the program facility reported that these benefits

carried over into their personal lives, with stress reduction and less time off for work-related injuries. Eventually, many of the staff who had at first resisted the integration began requesting to be assigned to this facility. One deputy said:

I kept hearing about the “love jail programs” and thought what a bunch of crap ... then I was forced to work there for cross training and thought I may have to quit ... I have to be honest, after two weeks of working at the program facility, I noticed when I got home, and my wife noticed it too, I wanted to do more things with my family and play with my kids. I never thought I’d say this but these programs are good for us also.

Over the years, the programs at this facility have evolved to include a restorative justice approach to working with male inmates. We mandate people to attend programs that help them stop their hurtful behavior and we offer the victims something they almost never get from the criminal justice system: empathy, support, and direct services. The Resolve to Stop the Violence Project, which works with violent men and those harmed by their violence, the Community of Veterans Engaged in Restoration for incarcerated veterans, recovery programs, and our own charter high school are examples of this approach.

## The Possibilities of What Could Be

IMAGINE EVERY JAIL AND PRISON TO BE A PLACE WHERE we create and provide no-nonsense programs that invest in people’s success and our public safety. Imagine that all uniformed staff in our jails and prisons are trained to be interventionists and educators who hold people accountable for their behavior by providing opportunities for those prisoners to change the behavior that brought them to prison. Think about it: being a correctional officer is probably one of the most thankless and stressful jobs. A man or woman is in a pod or tier or dormitory eight to ten hours a day, depending on their shift. All around our nation, these shifts exist around the clock, 365 days a year, in which professionals can have a profound, positive influence on the millions of prisoners that come in and out of our jails and prisons. If those uniformed staff are encouraged and rewarded for their humanity, role modeling, and contribution, this would have everlasting public safety benefits by returning individuals back to our

community more prepared to become pro-social, law-abiding citizens and participants in restorative justice efforts. That would put true meaning to the title of “correctional officer.”

It is time to bring our social justice principles to a higher ground for prisoner and worker alike. Just as programs have been developed that change the culture for inmates, changing the culture for those who work in the jails boils down to the question of leadership.

Now is the time for a new approach to training corrections officers throughout the country. We now have “realignment” in California, whereby those formerly sent to state prison for nonviolent, nonsexual crimes will stay in county jails or participate in community-based supervision programs. Many shudder at this change, but if done right, intelligently, and with heart, this can be a way out of the madness of doing business as usual with matters of crime and punishment. We can change the way we sentence, incarcerate and release prisoners that will improve public safety, reduce cost, and ultimately enhance our civilization. Now, and in the future, we have the opportunity to bring more effective and more humane conditions both to those who live and those who work within the walls of our prisons and jails.

Ideally, restorative justice is about creating alternatives to prison altogether, but we can do it both inside and outside as everyone has a stake in this, Republican or Democrat, big tent liberal or small-government conservative; this isn’t a partisan issue, it is a human one. We can actually use the prisons to make us safer if we realign the way we operate our jails and prisons. If our prisons really correct behavior, we all win. It will only happen with a new vision and expansion of what the sworn staff can do for their and everyone else’s health and safety. ■



*In the Man.Alive play (see caption on page 28) Reggie Daniels (left) accounts for his actions, speaking through the piece to his often-neglected eldest son (played by Freddy Gutierrez, at right) who is now caught in the same street life that enveloped him.*



# Confronting Sexual Assault: Transformative Justice on the Ground in Philadelphia

by Bench Ansfield  
and Timothy Colman

LEE WAS ALL TOO FAMILIAR WITH THE impact sexual assault can have on lives, communities, and social justice organizing. After being sexually assaulted by a prominent anti-poverty organizer, Lee felt confused and betrayed. He stepped back from the campaign the two of them had been working on together and began to avoid the organizer as much as possible. It was months before he told anyone about the assault.

Eventually, he joined a support group for survivors of sexual violence, and began to work through some of the numbness, shame, and fear that had developed after the assault. As he began to confront these feelings, what emerged from within him was a deep well of grief and anger. It became more and more difficult to see the organizer at community meetings or friends' parties. He started getting angry with his housemates for inviting the organizer to events at the house, even though they had no knowledge of the assault. Much of his anger stemmed from the lack of repercussions facing the organizer, as well as the lack of power he had to protect himself from the organizer's ongoing presence in his life.

Lee knew that he did not want to report the sexual assault to the police, for a whole long list of reasons. He would lose control of his story if he reported it; he would be forced to tell the details of what happened to the police and to testify in court; a number of painful details about his own life and history might emerge; and he would almost definitely lose the case. But more importantly, the idea of pressing charges felt like its own tragedy. He had become politicized in the anti-police brutality movement and was now involved in prison abolition organizing. Lee's sense of justice, what would make him feel like the anti-poverty organizer had faced his due, had nothing to do with courts or cops or prisons. Finally, no matter the verdict, he didn't believe a court case would make the



organizer change. Lee wanted him to somehow understand the harm he had done, take responsibility for it, and transform whatever it was inside him that had made him do it. But Lee didn't want to be the one to push the organizer to change—he couldn't even bear to be in the same room with him. And so he just tried to forget the incident had ever happened.

Lee's story—which we are sharing with his permission, having changed his name and identifying details—evokes the frustratingly limited options available to survivors of sexual assault in most U.S. cities and the urgency of creating new systems. This is a helpful starting point to begin discussing transformative justice approaches for addressing sexual assault.

What would happen if our responses to sexual assault came from a vision of the world we want to live in? A scattering of groups, including UBUNTU in Durham, Safe OUTside the System Collective in Brooklyn, Young Women's Empowerment Project in Chicago, Community United Against Violence in San Francisco, and others across the United States and Canada, are working to create community accountability and support networks based not on the punitive and coercive methods of the criminal justice system but rather on principles of care and harm reduction.

In Pennsylvania, two organizations involved in this work are Philly Stands Up and the Philly Survivor Support

*Bench Ansfield is an organizer with Philly Stands Up and Philly BDS. Timothy Colman is an organizer with the Philly Survivor Support Collective, a former member of Philly's Pissed, and a contributor to The Revolution Starts at Home: Confronting Intimate Violence Within Activist Communities (South End Press, 2011). If you are interested in learning more or donating to support their work, please visit: [phillysupportstands.wordpress.com](http://phillysupportstands.wordpress.com).*

Collective, groups that trace their roots back to 2004, when a group called Philly's Pissed formed out of a burning rage at the lack of options for survivors of sexual assault in their communities. Based in West Philadelphia, both groups work in collaboration to shift cultural responses to sexual assault, bring healing and accountability to the fore, and challenge the punitive response of the state. Faced with a criminal legal system that routinely disempowers survivors and an exploding U.S. prison population, it is clear that we are in dire need of alternatives to prevent, confront, and heal from sexual assault and intimate partner violence.

One way to move away from the punitive methods of the criminal legal system is to turn toward the idea of community accountability. Our work is about realizing the potential carried by our families, communities, and networks to address violence without relying upon the police, courts, prisons, or other state and nonprofit systems. We did not invent this strategy; many of our guiding principles have been made possible by indigenous communities' responses to violence, both historically and contemporaneously, as well as INCITE! Women of Color Against Violence's groundbreaking efforts to document community accountability models.

Instead of interrogating and victim-blaming the survivor, then punishing and demonizing the person who perpetrated assault, we envision and construct systems of community accountability that are grounded in safety, self-determination, healing, and the human potential to change. Central to this generative project is an understanding that instances of sexual violence occur within larger systems of structural violence and oppression. We must confront each individual act of sexual violence within its systemic context. At the same time, we must build alliances with movements both in Philadelphia and beyond to end all forms of interpersonal and state violence. We call this work transformative justice, and we practice it as part of an inspiring movement that is germinating throughout North America.

## Forging Paths to Safety, Justice, and Healing

APPLYING A TRANSFORMATIVE JUSTICE APPROACH TO THE issue of sexual assault means working to support individual survivors while building real options for safety, justice, and healing outside of punitive and disciplinary state systems. Efforts to create alternative systems such as this are underway from North Carolina to California. Here in Pennsylvania, the Philly Survivor Support Collective is working to create and maintain systems of support and accountability wholly outside the framework of the criminal legal system.

Our commitment to transformative justice comes out of a recognition that the criminal legal system dehumanizes and disempowers all survivors, in addition to increasing the amount of violence in all of our lives. This negative impact is most acute for survivors and communities who are already disproportionately targeted by state violence,

including communities of color and indigenous communities, and survivors who are sex workers, incarcerated, and/or transgender. We believe that efforts to transform our communities must be grounded both in the present moment—in the form of ensuring survivor safety and prioritizing survivors' self-directed healing—as well as in the long haul: working toward a vision of the world we want. In order for the movement to end sexual assault to be led by those most directly affected, we must build our capacity to support each other's healing, ensuring that as survivors, we are able to bring the fullness of our wisdom and experience to the work.

For many people, it is difficult to even conceive of a way of responding to violence—whether sexual assault or other kinds—that does not rely on the courts, police, or prisons. We are eager to share a description of our work in Philly with the hope that it will encourage others to join in the growing movement to create alternative approaches to addressing harm.

On an individual level, our work is always directed by the survivor. Our role is to listen to them, meet them where they're at, offer emotional support and resources, and create solutions together. We ask survivors if they have initial priorities that they want to focus on as a first step; after they identify these, we creatively plan together how to address them. These often include immediate health or safety needs, such as emotional support, medical care, counseling, strategizing to engage the support of people close to them, acupuncture, child care, safety planning, travel to get away from a harmful situation or to be near loved ones or concrete resources, or any number of other needs.

After these urgent needs are met, we stay present with survivors as they begin to explore options for accountability, justice, and healing. Transformative justice offers a lens through which survivors can examine the underlying conditions where the violence occurred, and identify what change they might want from the person who harmed them, their community, or the broader world. Survivors might pursue individual or collective paths to healing, might make demands for accountability or transformation from the communities or organizations where the assault occurred, and might make demands of the person who harmed them or leave that person aside altogether. During this process, we work to transform the community, people, or institutions that surround the survivors, increasing the capacity of the community to be responsive to the survivors' needs.

Each situation we take on offers its own challenges, which are also possibilities for growth and transformation. If a survivor chooses to make demands for accountability from the person who caused harm, we may assist the survivor in engaging the support of friends or community members to communicate these demands, or in facilitating an accountability process with Philly Stands Up. If the person who caused the harm is still in the survivor's life or community, we can work with the survivor to create a safety plan or ask for certain shared-space policies.

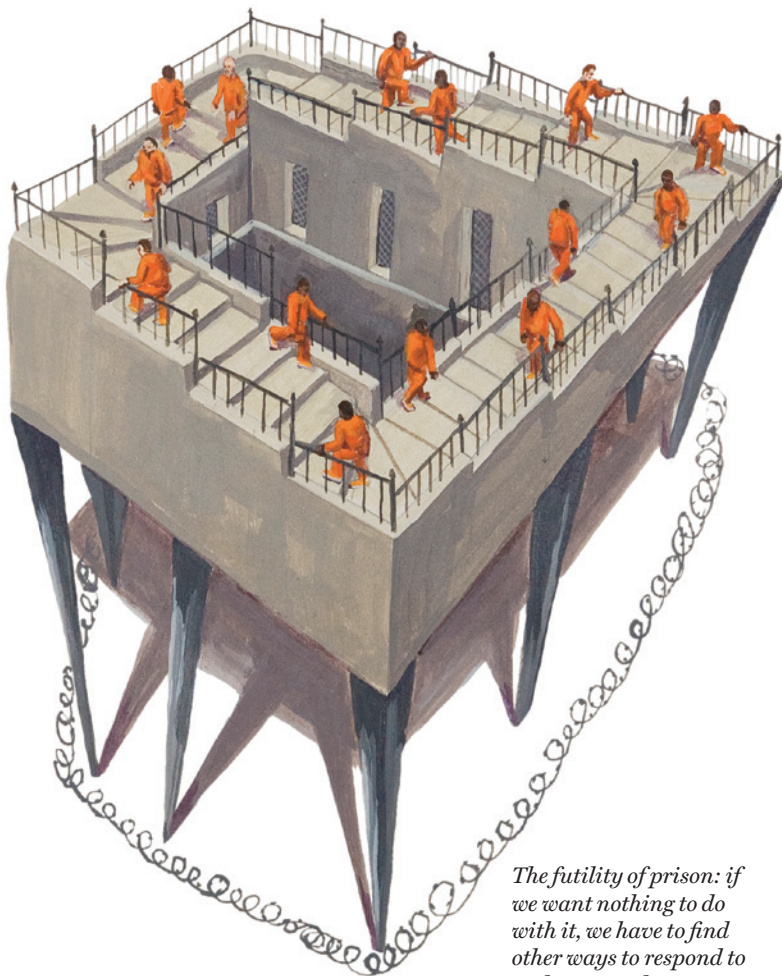
Safety planning is a tool often used by survivors who are in a relationship with an abusive partner, to minimize potential harm and to have a plan to draw upon quickly if they need to leave. Shared-space policies are commitments made by loved ones, community members, or organizations to take certain actions, as determined by the survivor, in the event that the survivor is put in the position of sharing space with a person who has harmed them. These policies can act as one alternative to a restraining order. The action requested by the survivor might be to ask a person who has caused harm to leave spaces where the survivor is present until that person has demonstrated a behavior change, or to have support teams on hand that can offer solidarity, support and safety to the survivor when the person who caused harm is present. Another option survivors might pursue is identifying harmful practices or attitudes endemic within their community or the larger culture that contributed to instances of sexual violence, such as victim-blaming, silencing, sexism, racism, transphobia, transmisogyny, classism, ableism, criminalization of sex work, and many others, and calling upon people to work collectively to eradicate these attitudes.

It is important not to place the burden for ending sexual assault on survivors. We must fight the idea that the survivor of a sexual assault is responsible for transforming the person who harmed them or preventing that person from sexually assaulting someone else. Our work is founded in the transformative justice principle that we are *all* responsible for addressing the root causes of sexual assault, and that together, we hold the power to transform our communities.

## Toward a Non-Punitive Accountability

IT CAN BE A HARROWING PROCESS TO LET OURSELVES OPEN up to the hope that someone who has perpetrated assault can truly be accountable, especially given the shortage of models of justice that are not entrenched in retribution, dehumanization, and incarceration. Transformative justice processes—like those that Philly Stands Up facilitates with people who have perpetrated assault—are fundamentally about altering our ideas about what seems possible, reminding us that we can no longer afford to dismiss people who harm others as inescapably violent. Our accountability processes are inspired by our faith that we really can dream up and practice methods for confronting sexual violence that move us toward safer, more self-determined communities, as well as gnaw at the structural underpinnings fostering cultures of violence.

Our interventions are rooted in the safety, healing, and demands of the survivor, but often go beyond these foundations to ask how we can identify and transform the patterns of behavior that enabled the assault in the first place. As we work to shift accountability away from the survivor and onto the person who perpetrated assault, we have to define what accountability means in each unique situation. The contours of each process look quite different from one another, but they share the same core objectives. Over the course of weeks, months, or years, our



*The futility of prison: if we want nothing to do with it, we have to find other ways to respond to violent assaults.*

weekly meetings strive to push the person who perpetrated assault to recognize the harm they have done (regardless of their intentions), acknowledge the harm's impact, make appropriate restitution, and develop skills for transforming attitudes and behaviors that are harmful to self or others.

Whenever possible, an intervention treats as its grounding document a list of demands from the survivor that have been shared with us by the survivor directly or through the survivor support collective. These demands can range from “do not share space with the survivor” to “compose a letter of apology” to “disclose to your current and all future partners.” The demand list guides us throughout an intervention and offers a tangible checklist we can use to measure our progress.

Frequently, though, our processes are forced to reckon with issues unprompted by a survivor's demands. When a person who has just been called out for sexual assault first comes to us—either on their own volition or due to community pressure—their life is often in shambles. Before we can start recounting specific violent incidents or reading over a demand list, we have to make sure that they have secure housing, a decent job, and a steady diet. It is not unusual for us to help them obtain a suitable therapist or assist them in reaching out to their loved ones for support and guidance. These tasks are critical for most any transformative

justice process, as they enable the capacity for change by collaboratively cultivating tools for finding balance and grounding. Through this methodology, we not only build trust and model interdependence, we also work toward eliminating a mainspring of sexual assault—instability and insecurity.

Often the most difficult challenge facing an intervention is earning “buy in” from the person who perpetrated assault. Because we reject the forceful violence intrinsic to the criminal legal system’s interventions into sexual assault—such as forced “rehabilitation,” incarceration, or, so frequently, inaction—we are forced to devise creative techniques to consensually pull someone into a process. Although we sometimes have to rely upon the use of community leverage to persuade someone to work with us, we make every effort to draw someone in by helping them acknowledge their own call to change.

It is critical to tailor an accountability process in such a way as to make the person we are working with understand that they *need* the process. Of course, this acknowledgement can only arise in a trusting and comfortable atmosphere. For this reason we keep our meetings small and intimate, with two members present for each intervention. Often we meet in public spaces like a park or a train station so as to avoid making the person who perpetrated assault feel cornered or attacked. And we collaboratively design a process around their needs and abilities. During one intervention, any given meeting might have involved visual activities like sketching and mapping, breathing exercises, or poetry. These strategies reflect an ongoing balancing act as we strive to make the person who perpetrated assault feel safe enough to respect the process and be vulnerable, while still being open to the challenges we are posing.

As an accountability process slowly gains traction, we begin to identify harmful patterns of behavior as potential sites of transformation. Facilitating the recognition of deep-seated and destructive cycles of behavior can be one of the most trying elements of an intervention. Most often, this requires naming

and unpacking the ways that various privileges and internalized oppressions play out in relationships. For instance, we may have to unravel how ableism was at work in an able-bodied person’s repeated coercion of her partner to have sex during flare-ups from an autoimmune disorder. Or we may have to map out how a cisgendered man’s patriarchal socialization contributed to a general imbalance of control in a heterosexual relationship. In a similar fashion, our interventions frequently scrutinize how oppressive race and class dynamics contribute to a relationship atmosphere ripe for sexual assault. As facilitators, this is often the most hazardous ground to cross. Acting as both witness and mentor to a transformative justice process is alternately frustrating and enlivening, appalling and regenerative.

It is critical to note that our work is not about “curing” the person who perpetrated assault. A lifelong and cross-generational project rooted not in that person’s rehabilitation, nor in the restoration of the community that existed pre-assault, transformative justice is, rather, a consistent movement toward community safety and individual/collective transformation.

By way of illustration, our intervention with Jesse (again, a pseudonym) lasted two years, and continues with occasional check-ins. At the beginning of his process, Jesse showed up to meetings recalcitrant and invulnerable. Certain that he had done nothing harmful, he argued that his ex-partner—the survivor in this situation—was getting revenge on him by “misrepresenting” as assault an incident that was in actuality a simple issue of poor communication. In order to sustain the process and keep him coming to meetings, we put the assault in question on the back burner for the first six months, dedicating our time together to building trust and helping him secure a new home. Slowly, as facilitators, we began to identify his harmful patterns of behavior—including pent-up anger, narcissism, and an inability to communicate his needs. Correspondingly, we set about cultivating relevant tools, such as empathy-building, anger management, communicating in stressful contexts, and establishing consent during sex. By the time Jesse was amenable to discussing the specific incidents of assault, we had already developed a wide set of tools for empathizing with the experience of the survivor, identifying his destructive actions, and practicing a different course of action in a similar context. Many months later, when Jesse had met the survivor’s demands, indicated his capacity for healthy relationships, and demonstrated a command over his own damaging behavior, we began transitioning out of the process. Yet even now, with the intervention no longer active, our check-ins with Jesse confirm that he is pressing on with the critical work of self-transformation, effectively keeping the accountability process alive.

Seven years out, it still feels as though we are reaching through the dark nearly as often as we are coming up against familiar scenarios. As one small piece of a growing movement, we know it is only through our risks and mistakes that we can collectively forge creative responses to violence. ■



SOPIA SAHYED AND ANNA GRANT



*The biannual Dakota Commemorative March retraces the 150-mile forced march imposed on about 1,700 Dakota people in 1862. The photographer, Reuben Kitto, marches with his family every time in memory of his ancestor Pazahiyayewin, who endured the march at age twenty-six with her four children and elderly mother, at the same time that her husband was sentenced by a military tribunal to death by hanging. Is restorative justice able to address harms on the scale of genocide and white supremacy?*

# Decolonizing Restorative Justice

by Denise C. Breton

WHEN I FIRST HEARD ABOUT RESTORATIVE justice, I remember feeling liberated and inspired by the idea of a movement that advocates responses to harm that do not inflict more harm. What a concept! It gave me hope that the untold harms in this world could be addressed in healing ways—ways that addressed why harms were happening in the first place. We could put our energies and resources into repairing whatever needed mending and changing whatever was generating hurt. Because there is no part of our lives where conflicts, hurts, and harms do not arise, restorative justice can be revolutionary to virtually everything we do. The concept seemed so simple yet so profound.

Restorative justice still gives me hope, but my experiences and conversations on the 2004 Dakota Commemorative March, and my reflections since then, have dramatically changed my orientation to the restorative justice movement. I still believe that it holds huge promise for helping us learn how to coexist, but I now think the very essence of restorative justice as a philosophy and way of life calls us to expand our focus to

include more than person-to-person harms. What about our history—how we got to where we are as peoples? How did we end up with this “square pegs only” pegboard, and at what cost?

These are the more fundamental questions—those that make us look at the roots of harm. As we do, we are challenged to apply what restorative justice practitioners have learned about healing harms between individuals to healing harms between peoples. This is the direction restorative justice must go, I believe, or it will fall short of fulfilling its promise. Indeed, it will risk joining the other side and becoming part of the institutions that not only deny the greatest causes of suffering but also actively perpetuate harm.

## The Dakota Commemorative March

PARTICIPATING IN THE DAKOTA COMMEMORATIVE MARCH was like watching, all week long, a movie about the terrible ways the white colonizers have treated the indigenous people in my home state of Minnesota, only I was in the movie and living it. I still am. The march commemorates what

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happened at the end of the U.S.-Dakota War of 1862, when about 2,000 Dakota people surrendered to the U.S. army with the assumption they would be treated humanely as prisoners of war. The organizers of the march explain on their website ([dakota-march.50megs.com](http://dakota-march.50megs.com)) what ensued:

The men were separated out and tried as war criminals by a five-man military tribunal. As many as forty cases were tried in a single day, some taking as little as five minutes. Upon completion of the trials, 307 men were condemned to death and sixteen were given prison sentences. The remaining Dakota people, primarily women, children, and elderly, were then forced to endure brutal conditions as they were forcibly marched to Fort Snelling and then imprisoned in Minnesota's first concentration camp through a difficult winter.

As both groups were paraded through Minnesota towns on their way to the camps, white citizens of Minnesota lined the streets to taunt and assault the defenseless Dakota. Poignant and painful oral historical accounts detail the abuses suffered by Dakota people on these journeys. In addition to suffering cold, hunger, and sickness, the Dakota also endured having rotten food, rocks, sticks, and even boiling water thrown at them. An unknown number of men, women and children died along the way from beatings and other assaults perpetrated by both soldiery and citizens. Dakota people of today still do not know what became of their bodies.

This ethnic cleansing of Dakota people from Minnesota was one part of the fulfillment of a larger policy of genocide. Governor Alexander Ramsey had declared on September 9, 1862, that, "The Sioux Indians of Minnesota must be exterminated or driven forever beyond the borders of the state." The treatment of Dakota people, including the hanging [of thirty-eight Dakota political prisoners] in Mankato and the forced removal of Dakota people from Minnesota, were the first phases of Ramsey's plan. His plan was further implemented when bounties were placed on the scalps of Dakota people, which eventually reached \$200. Punitive expeditions were then sent out over the next few years to hunt down those Dakota who had not surrendered and to ensure they would not return. These actions cleared the way for white settlement of Minnesota.



Gov. Alexander Ramsey

During the commemorative march, I saw a look on the faces of the Dakota, especially the elders, when they saw me—blond as can be, clearly white and not raised among them. Many had endured lifetimes of suffering at the hands of white colonizers—nearly boiling water poured on children's hands in boarding schools as punishment for speaking their own language, beatings and sexual abuse in schools, rapes and murders never even investigated much less brought to justice, children stolen from their parents, continually dehumanizing stereotypes and messages about them in colonizer society, exclusion from economic opportunities, and complete denial that injustices had ever been done. Though not ungracious, the Dakota elders did not come up to me, shake my hand, and say how glad they were to see me there. How could they?

Restorative justice does involve bringing together victims and offenders, but only after considerable preparation has been done on both sides. Forcing those harmed to come together with those who have benefited from those harms prematurely could inflict greater damage, especially during times when the victims of harms want nothing more than to be left alone to grieve their losses. As for us colonizers, we are far from doing our preparation for such a meeting.

When I identify myself as a "colonizer," it is not a label I take on with pride. Rather, with a heavy heart I apply this term to myself to reflect my realization that no matter how deeply I seek to align myself with anti-colonial struggle in the present, the reality of my white skin, the family into which I was born, and the subtle ideologies I was raised with place me on the wrong side of history. I apply the colonizer label to myself and to other white people in the United States to remind us to expand our awareness of how we have been programmed to be racist and of how we now function as colonizers, not only by benefiting from past harms but also by justifying them, so that the status quo that secures our advantage remains unchanged.

Most of us have not seen this movie of catastrophic harm to "others." We live oblivious to the immensity of harms done, so we are not even considering what preparation on our part would be necessary for a restorative justice meeting with Native peoples.

Minnesota's colonizer society has responded to this history and its effects mainly through social service programs or, if those fail, through the criminal justice system—in other words, by imprisoning Native people. Yet neither of these responses addresses the roots of harm. Quite the opposite, they keep the movie's plot going in its original genocidal direction, because the aim of both institutions—social services and criminal justice—is forced assimilation into colonizer society. They are not designed to honor the Dakota People or to rectify longstanding harms against them. As Waziyatawin, Ph.D.—author of *What Does Justice Look Like? The Struggle for Liberation in Dakota Homeland, For Indigenous Eyes Only: A Decolonization Handbook*, and more—so clearly explains, a

social service mindset further blames the victims of genocide, racism, and colonization; it does not promote decolonization by challenging these realities as the roots of harm.

Restorative justice could offer a more appropriate response, because it requires acknowledging that at the root of these harms lie criminal acts—indeed, immense crimes against humanity. The issue between Minnesota’s colonizer population and the Dakota People is a criminal issue first. All the social, economic, and political issues that Native people face today follow from this central truth: crimes have occurred that have never been rectified or brought to justice.

## How Restorative Justice Is Losing Credibility With First Nations

AS WITH ANY VICTIM-OFFENDER SITUATION, RESTORATIVE justice processes begin when the perpetrators of harm acknowledge what they did and take responsibility for the harms they caused. Acknowledging the crime and rectifying its effects are central to helping both the victim and the offender recover and be able to live good lives. Only when the crime is addressed to the victim’s satisfaction can the victim and the offender begin to explore whether or not they are able to be in a good relationship with each other.

If, however, the crime is not even acknowledged, much less repaired, victims are continually revictimized. In fact, they are often blamed for the harm, as if they deserved to suffer or as if it were their fault; they are blamed for failing to “bounce back”; or they are blamed for the dismal condition that the crime left them in. The assumption is always that something is wrong with the victim. In the meantime, the offenders not only go scot-free with the booty but also continue to harm their victims by not holding themselves accountable for the ongoing suffering they are causing.

If the restorative justice movement fails to address the colonial crimes embedded in our history, it will risk losing credibility in this country, as it seems to have already done in Canada. Many First Nations now reject restorative justice, and precisely on these grounds. The core vision of going to the roots of harm and doing what it takes to put things right is experienced as empty rhetoric, invoked only when colonial power structures deem it advantageous to do so. Instead of working toward wholeness for colonized peoples, restorative justice functions as another tool of colonizer institutions, whose goal is not healing but for one group to justify and reinforce their domination of another. Restorative justice is simply

used to make the violence of the criminal justice system—the colonizers’ control-by-fear fist—seem more humane. Instead of addressing the wider contexts that generate harm, the focus stays on trying to fix person-to-person conflicts. Individuals, families, or communities are viewed as “the problem,” while the larger reasons that individuals, families, or communities have problems remain invisible. Restorative justice is used to serve the needs of the colonizer state, not to empower communities and liberate peoples.

This does not mean that we as individuals—colonizers or Original People—should not be held accountable for the harm we do. Yet here in Minnesota, we colonizers have not been held accountable *at all* for state-sanctioned, citizen-supported crimes against humanity—and yet we describe ourselves as international leaders in restorative justice. How could

Dakota people—or anyone else who knows the history—take restorative justice seriously if we diligently hold this or that offender accountable for drug possession or stealing a car or even doing graffiti while we fail to hold ourselves accountable for genocide that we committed so we could steal an entire state’s worth of land and bequeath it to our own, generation after generation? If we were to apply our own laws about murder and stolen property to this case, we would have to rule that every time we sell a house in Minnesota, we commit a felony, and every Minnesota realtor should be imprisoned for dealing in stolen property gained through murder.

## What White People Can Do

RESTORATIVE JUSTICE DOES NOT HAVE TO BE HIJACKED INTO being an accomplice to colonization, for its roots are not there. If restorative justice embarks on large-scale healing between entire peoples, the systemic issues causing suffering to Native peoples will begin to be addressed and rectified. Together we can acknowledge the massive harms done, name racism as it operates to hurt Native peoples, arrange substantive land return, honor the inherent sovereignty and self-determination of Native peoples, make restitution and reparations, return the billions of dollars missing from trust funds that have been accumulating from the white use of Native resources (the 2010 Cobell settlement did not begin to repay what was stolen), respectfully cease behaviors that denigrate Native peoples (such as using them as sports mascots), and teach everyone the full history of this land.

These steps of healing justice give us an agenda to work on, yet we do not have to wait for local, state, *(continued on page 69)*



# Shifting School Culture

by Rita Alfred and Ina Bendich

“**T**HAT’S NOT FAIR!” THIS PHRASE WAS UTTERED daily by many of the students in Oakland’s public school system. Even when they were caught in an act that violated school rules, students did not readily take responsibility for their actions. They were simply playing their role in our punitive system, in which most students tend to blame others rather than accept the consequences for their behavior. Our search for ways to change this paradigm led us to explore the practice of restorative justice.

## Training to Change the System

DURING THE FALL OF 2005, I (RITA) WAS EMPLOYED BY THE Oakland Unified School District as a case manager working with students and their families who were referred for expulsion. As case managers with backgrounds in counseling and mental health, we were charged with finding alternatives to suspensions and expulsions. In December 2005, I was mandated to attend a four-day training on restorative justice, organized by a local community agency, Restorative Justice for Oakland Youth. The training was facilitated by Roca, a youth development agency from Chelsea, Massachusetts.

After completing the training, I was assigned to Cole Middle School and worked closely with the principal and assistant principal as a case manager for the school’s Pupil Disciplinary Hearing Panel. The administrators and I had several conversations about student suspensions and expulsions and lamented that the children returned to school showing no behavior changes. It was a vicious cycle, an unending revolving door. This situation exacerbated the already chaotic school culture of fights and defiance.

My job was to create a paradigm shift within the school context by introducing restorative justice as an alternative to the traditional discipline system. After my training with Roca,



Harsh school discipline drives many students into juvenile and adult prisons. Students illustrated the school-to-prison pipeline at a Representing the Pipeline event in Chicago in July 2010. See [suspensionstories.com](http://suspensionstories.com).

I returned renewed and ready to try this new way of working with student violations. The principal, having had several years of experience as an assistant principal, agreed that suspensions and expulsions did not work to change student behavior. Together, we began the restorative justice journey at Cole.

## Year One: Bringing Teachers On Board

I BEGAN THE RESTORATIVE JUSTICE EDUCATIONAL PROCESS BY offering support meetings for teachers to vent and reflect on

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*A circle meets at Cole Middle School in Oakland, California. The restorative justice pilot program at Cole, which Rita Alfred coordinated, was so effective in reducing suspensions, expulsions, and violence that staff at about twenty schools sought training and assistance to bring restorative practices to their sites. In large part due to these efforts, in January 2010, Oakland's school board passed a resolution adopting restorative justice district-wide as official policy.*

their experiences with the students in the classroom. Many of them were in their first year, and classroom management was especially challenging. I built close relationships with several teachers and offered assistance to them in their classrooms whenever I could.

In August of 2006, after several planning meetings with the principal, we launched a year of training for the teachers. We unearthed conflicts among staff and used the restorative justice process to work through them. At the same time I was facilitating restorative circles with students and discipline conferences with students, families, administrators, and teachers when needed. We started out with a two-day training in August, negotiated a monthly staff training using the process, a follow-up two-day training in November, and another follow-up two-day training in the spring.

The staff built a closeness and willingness to work through differences. By the end of that year, the majority of the adults at Cole were ready to bring this new practice to the students and their families. We experienced some good results in the first year: a reduction in fights, suspensions, and referrals for expulsion. We also saw close to 100 percent retention of teachers—this was unprecedented as turnover was usually around 50 percent—with just one teacher leaving for higher studies. And we all experienced a more positive school culture.

## Year Two Onward: Students Take It On

IN 2007 WE CONTINUED WITH AN INITIAL TWO-DAY TRAINING for staff in August, monthly restorative justice staff meetings/trainings, and a one-day training in the spring. A teacher and I taught a restorative justice elective class for eighth-grade students. Students from this class presented a restorative

justice workshop at the annual middle school conference. Teachers and administrators referred cases to the restorative justice process. Many of these cases were resolved successfully. Fights were down again, and fewer students were referred for expulsion. In 2008, our principal left the area and a new principal came on board. The teachers and I were on the hiring committee and were able to garner a commitment from the new principal for this healing work to continue at Cole. He was enthusiastic about the process.

Students identified the restorative justice process as “fair,” and with some encouragement, many admitted when they did something wrong. Suspensions fell by 87 percent. Students continued to embrace these practices in high school: their principal noticed that Cole students actually accepted responsibility when they committed harm and expected adults to include them in the restoration process.

Perhaps the most rewarding part of this work arose when the Cole students moved on to high school. In 2005, the larger comprehensive school, McClymonds High, was broken into two small schools. Thus Cole students had the option to choose between BEST, which offered an entrepreneurial track, and EXCEL, which offered a law and international trade track. The EXCEL Law Academy director solicited Cole students. Her plan was to incorporate restorative justice into a youth court program that had previously handled teacher and administrator referrals using the traditional adversarial process. Within three to four weeks, Cole students were actively facilitating restorative justice circles based on referrals submitted by teachers and administrators.

These students not only handled conflicts that arose between other students, they were also able to manage

conflicts among themselves. One afternoon, a former Cole student was engaged in a verbal battle with another student that threatened to become physical. This incident took place in front of the principal's office when the Law Academy director happened upon the scene. She put her hand on the shoulder of the Cole student, and reminded her that she knew what to do. Almost immediately, the student stopped and, with her peer, responded to the familiar series of questions posed by the adult. This restorative conversation kept both students from receiving a suspension once the principal became aware of their willingness to solve the problem constructively.

## Lessons Learned for Restorative Justice in Schools

RESTORATIVE JUSTICE IS A PHILOSOPHY AND SET OF PRACTICES that move us from being punitive toward someone who has done something wrong to being receptive and constructive while holding the person accountable. It first began in the juvenile justice system, but in the last fifteen years, schools have begun to adopt its principles and practices. Schools have found that for these to effectively help students to change their behavior, practitioners need to build a wider culture that can support the changes in behavior that students are trying to learn. We also found that students need to be supported after experiencing the practice. Hence restorative justice



*"School House Jail House" reads the text on this painting by a student at the Representing the Pipeline event.*

encompasses the intervention and also the community-building and culture change necessary to provide the caring conditions in which change can be made and re-integration can occur.

In many schools, some structures already exist to support a culture of caring. Many schools implement Second Step, Too Good for Violence, Too Good for Drugs, and Tribes—programs that assist in building a foundation of caring and help students and adults work collaboratively to solve problems and resolve conflicts. Conflict mediation, victim-offender dialogue programs, and youth courts are also in place to correct wrongdoing, in addition to structures such as school support teams, school attendance review teams and review boards, parent/teacher conferences, and case management, which bring people involved in a student's life together to help the student. These structures may or may not be restorative.

Being restorative is many things—it is holding onto *and practicing* values that promote ideals such as inclusiveness, respect, responsibility, honesty, compassion, love, open-mindedness, kindness, and consensus-based decision-making. It is a way of being in relationship with all people and, in some cultures, being in relationship with all things, including nature and other animals. Thus restorative practices embody many of the ideals of religious and moral thought.

Justice, on the other hand, attends to the harm caused. Justice occurs when people who have been harmed can ask for what they need and get what they need to move on. Justice occurs when those who were harmed are allowed to communicate the impact of the harm to the person who harmed them and finally feel that they have healed. Justice occurs when people who have caused harm realize what they have done, feel remorse, discover the underlying causes that led them to commit the harmful acts, heal, and are motivated to take actions that begin to right the wrong and finally to promise that they will not cause such harm again.

Justice occurs when the community gets involved whenever harm happens to anyone within the community and assists both the person harmed and the person who caused the harm. It is the community's responsibility to adopt applicable lessons from each situation into daily interactions among community members.

Implementing restorative justice in schools will require recreating our culture and how we interact with each other. Restorative justice and many of the structures and programs mentioned offer some ways to rethink and build on the caring culture that already exists. This will require taking a hard look at the way we *are* in our schools—how we behave, how we think about harm, how we hold and share power, and how we shift existing practices that undermine the culture of caring and accountability that we are advocating. This takes time and involves a process of inquiry that we are just now embarking on at the district level. ■