



An Alternate Lens on Crime

What is restorative justice, and why do we need it? Dr. Howard Zehr explains crime and its consequences.

BY AMY UELMEN

MANY ARE FRUSTRATED WITH THE current justice system. Where lies the problem?

As Dr. Howard Zehr, a major pioneer in the restorative justice movement, explained in his book *Changing Lenses*, part of the problem lies in how we think about crime. Instead of concentrating on the actual harm done or on what the victim and offender have experienced, we focus on the act of breaking the law. Because crime is seen as an offense against the state, the focal point of justice becomes establishing blame and administering pain.

According to Zehr and many others, the resulting system fails to address the real needs of victims, offenders and community members. It offers no vehicle to

repair the harm done and heal the broken relationships.

What has been termed “restorative justice” attempts to address some of these limitations. As Zehr describes in *The Little Book of Restorative Justice*, in a nutshell “restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible.”

Depending on the needs of a particular case, restorative practices often bring together the victim and offender for a meeting facilitated by a trained mediator. Other practices, such as family group conferences, widen the meeting to include the offender’s and sometimes the victim’s families, with the aim of encouraging the offender to take responsibility and change

his or her behavior. Native American “circles” assure that each person’s contribution is valued by using a “talking piece,” which is passed around the circle as each person speaks. Used in criminal sentencing and other circumstances, this process consciously enlarges the circle of participants.

I recently had an opportunity to speak with Zehr about his work in the field and the values that have formed this alternative lens for thinking about crime and justice.

What led you to develop a new perspective on the justice system? I had worked as an advocate for prisoners, and I thought I had a pretty clear idea of what was wrong with the justice system. Like many offender advocates, I thought victims just got in the way of justice.



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Opposite: Howard Zehr presenting his book *Transcending: Reflections of Crime Victims*. Professor of sociology and restorative justice at Eastern Mennonite University in Virginia, Zehr co-directs the Center for Justice and Peacebuilding. He has lectured, consulted and trained in several dozen countries throughout the world. Above: Inmates in Manila, Philippines

When, at a certain point, I had to deal with a fire at the halfway house for ex-offenders that I was directing, the board recommended we look into the idea of victim-offender mediation. I was very skeptical. I liked the moral clarity of the way I had worked, because I knew who were the good guys and the bad guys.

Prosecutors were the bad guys, and now I had to work with them. But when I started to hear more and to work with both victims and offenders, it did not take me very long to change my mind.

I began to see that surprising things happen when victims and offenders meet. For example, we had a burglary victim who wanted the offender to go out and buy a piece of furniture that fit the décor of their home. They wanted reparation, and they also wanted to say to their friends, "Look what my burglar bought for me." Because the family had a particularly rare kind of oriental furniture, they all ended up going shopping together.

Months later the woman in the family ran into the offender on the street and asked him how he was doing. He had just lost his job, and he was on his way to the factory down the street to apply for a posi-

tion. The woman knew the owner, called him, and he ended up getting the job.

This is just one of the stories. I realized that there was something here that we were missing. That's when I began to write a manual, so that people would know how to engage in what was eventually called "restorative justice."

Can you explain a few of the ideas that form this "lens" to look at crime and its consequences? I think a lot of offending behavior is driven by a need for respect, or a way to deal with dishonor. I am convinced that the legal process is so dysfunctional because it just repeats that cycle of dishonor and shame.

In his 1989 book, *Crime, Shame and Reintegration*, Australian criminologist John Braithwaite distinguished between two kinds of shame: stigmatizing and re-integrative. The legal system often takes the stigmatizing approach: you are labeled as bad, and there is nothing you can do about it. The court process is a ritual of degradation.

For shame to be "re-integrative," you have to label the wrongdoing without labeling the offender. This is best done in

the context of communities of concern, which gather people who matter to you. It is also important to include rituals of termination, which bring closure to the process. Shame can be powerful if it can be transformed into honor. But I also think we have to be very cautious about deliberately imposing shame.

For example, a couple of kids, ages 14 and 16, had vandalized a factory with fire extinguishers, making a big mess, and the court sent them to our program. They met with the foreman, who read them the riot act and had them in tears about what they had done.

He told them, "I wish you could clean it up, but we have done that already. But there is a vacant lot next door; I want you to clean that up." So they made an agreement and did that for a number of days.

Then on the last day, the foreman told them to bring their swimming suits. He took them to the house of the factory owner, where they had a pool party and burned the contract they had made. Their teachers told us that after this, they saw an improvement in the kids' grades. They knew they had done something bad, but then they were really proud of how they had made up for it.

Shame happens. You don't have to impose it; the question is what you do about it.

Can restorative justice be applied when the relationship itself is dangerous, such as cases of domestic violence or where there are serious psychological illnesses? It's a framework that depends on the needs of who has been hurt. It may be appropriate to have a meeting in these cases with preparation, or it may not be appropriate. Some victims may find it useful to speak with a surrogate instead of with the actual offender.

We had one case where members of a family had been murdered by the adoptive brother, and the sister met with a group of offenders who had committed similar crimes. The sister said, "I'm trying to understand Keith," and they each told her what happened, what they did, and why. She found that helpful for her own healing.

In most capital cases, victims do not want to meet the offenders, but they do



COURTESY OF HOWARD ZEHR

have questions, and using a semi-restorative framework, their questions can be relayed to the defense attorneys, and they can often get answers without jeopardizing the case.

Is forgiveness a primary goal of restorative justice? That is a hard question. Some might say that restorative justice is exclusively about forgiveness. But the problem is that people can feel it as a pressure. Some victim groups do not want anything to do with restorative justice because they are made to believe that they have to consider forgiveness and reconciliation.

I describe restorative justice as a process oriented around needs, involvement and obligations. Statistically people may be more likely to forgive, but the process is not to force anyone to talk about it, and instead let the victim bring it up. It's also important to clarify that forgiveness does not mean not holding a person accountable for what he or she has done.

How international is the restorative justice movement? Even though the field started in North America, the United States still has a very piecemeal application. In other places, such as Germany

and Finland, applications are much more systematic. The system is very developed in New Zealand, where it is actually intended as the norm for serious youth crimes.

In encounters with my students, I am finding that for many traditional peoples, restorative justice legitimates an approach that had been repressed by the colonial powers. They find it refresh-

ing and affirming to realize that there is value in those traditions.

For example, one of my African students had been stuck in a protracted going through

conflict. After the program, he went back and used the restorative justice framework as a way to activate the elder system, and they were able to get the peace process moving again.

In *Changing Lenses*, you discuss the biblical vision of shalom at the foundation of your work. Did you begin working with a religious framework, or was that something you integrated as you went along? Much of this work grew naturally out of a Mennonite commitment to peace and justice.

Later we went back more systematically to the theology and realized how often the Bible has been misinterpreted. For example, judges will quote “an eye for an eye” (Lev 24:20) to emphasize the retributive dimensions of the Bible. But they often miss the context, that this was a law of proportion, intended to limit rather than encourage revenge ... The phrase appears in the Bible only three times.

In contrast, the word “shalom” appears 350 times and then is also carried through to the New Testament. The whole focus of the Bible is that we live together in shalom, which could be translated as “all rightness” with each other, with our creator and with all creation.

What’s wrong with crime is that it breaks that relationship. Our primary response to crime should be to figure out a way to recreate shalom. To me that is everything, that is what it is all about.



For more information about Howard Zehr’s restorative justice work, visit the website for Eastern Mennonite University, www.emu.edu/ctp. You can find The Little Book of Restorative Justice at Good Books, www.GoodBks.com.

Beyond the Adversarial System

A civil trial lawyer calls for restorative justice principles to be applied outside the justice system.

“I BEGAN TO REALIZE THAT THE ADVERSARIAL system is not conducive to healing or restoring relations, to building community, to growth and learning and real human transformation. This system offers little opportunity for empathy and recognition or apology and forgiveness. In fact, little encounter or dialogue happens between the parties. This system of dealing with harm and conflict is not

even very good at getting at the truth. The adversarial system, with painful retributive consequences for losing, creates an atmosphere of defensiveness, half-truths, and lying. Is there another understanding of justice, another way other than the adversarial one for dealing with conflict and harm in this world?”

—*From Thomas W. Porter’s Conflict and Communion: Reconciliation and Restorative Justice at Christ’s Table*