

Chapter 4: Restorative Justice: Lecture (2018), Jim Forest Institute for Religion, Peace and Justice (IRPJ)

This is text of a recorded lecture I did for "The Jim Forest Institute for Religion, Peace and Justice."¹ It was significantly revised and greatly extended in Chapter 3 of this book. You may wish to skip this, therefore, and read that chapter. But there is some different material in this, so I include it.

Introduction

When I first was merging into the Restorative Justice field, after having become in 1974 a volunteer visitor of prisoners in the provincial criminal justice system of British Columbia, I soon became aware of many problems in contemporary Canadian criminal justice practices (and by extension in Western criminal justice jurisdictions).

Victims: The Orphans of Justice

In a 1986 publication² for which I supplied the final chapter, I wrote:

From various studies in Canada, *victims* felt invariably devastated by the criminal act, and almost entirely unaided by the present system.³ Their experience was deeply traumatic, raising profound questions about their very identity and security in a world which suddenly appeared more threatening and far less predictable.

Several needs for victims emerge, and of course continue so, for those harmed by crime:

the person wishes to give vent to his or her feelings, perhaps scream them at both the perpetrator of the crime, and those in the system, who seem only interested in the 'facts' of the case, as if their raw emotional response is not a crucial fact;

¹ See: https://en.wikipedia.org/wiki/Jim_Forest, accessed August 23, 2024. The list of Guest Lecturers (amongst whom I am one) may be found here: <https://www.jfi.ssu.ca/people>, accessed August 23, 2024.

² Northey, "Towards a New Paradigm of Justice."

³ See (updated) "Criminal victimization in Canada, 2019," <https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00014-eng.htm>, accessed August 23, 2024. We read one summary point:

In 2019, about three in ten (29%) Canadians indicated that the victimization that they or their household experienced was reported to police. Reporting varied widely depending on the type of crime, from about half of all motor vehicle thefts, break and enters, and robberies, to 6% of sexual assaults. . .

However, their main limitation is that they are unable to provide information on crime that does not come to the attention of police or other authorities. Crimes that are not reported or recorded, often referred to as the "dark figure of crime", account for the majority of criminal incidents. For some types of crime, such as intimate partner violence or sexual assault, only a very small proportion are ever brought to the attention of police or other officials. Relying solely on official statistics for an understanding of these crime types could therefore result in a skewed understanding of the nature of crime and victimization in Canada, as those that come to the attention of police are not necessarily representative of all incidents of crime.

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he or she needs some kind of restitution to compensate for his or her loss; harmed individuals need some kind of vindication for the suffering, i.e. an experience of fundamental justice, which will somehow set things right;

the victim needs a restoration of power when the entire experience which follows, including the victimisation, is one of complete powerlessness; and he or she has a further need of forgiveness and release.

But the current Western system of law was not designed to deliver any of the above. At best it happened incidentally in her contact with the authorities. As Nils Christie observes:

Training in law is training in simplification. It is a trained incapacity to look at all values in a situation, and instead to select only the legally relevant ones, that is, those defined by the high priests within the system to be the relevant ones.⁴

Victims' concerns are simply irrelevant in our state-controlled justice systems.

When the question about the impact of the justice system from victims' points of view is raised, a fundamental reality of the system has been *the non-status of the victim*. The State – *Regina* in the British common law tradition – is robbed, raped, murdered, etc., not the actual victim. The modern State, drawing on longstanding Western European Law, generally rendered the victim superfluous – except as a witness. *The State's response was, therefore, the antithesis of the personal or communal.*

As indicated, the entire orientation of the system was, therefore, towards a kind of game-playing, where rules, precedents, and 'process' were all-important. American Justice Oliver Wendell Holmes, Jr.⁵ a century ago once responded to a friend's admonition to go and do justice, with the words:

I don't *do justice*, I simply *play the game* according to the rules.^{6/7}

Offenders: Focus on Their Punishment

Certainly, the system was also not working for *offenders*. In my personal interaction with hundreds of offenders beginning in 1974 and for forty years since of professional and volunteer work in the prisons,⁸ they consistently expressed a sense of injustice at the hands of the 'System.' Most in my experience admitted their own culpability, but it was a case of invoking the old adage:

*Two wrongs do not make a right.*⁹

Psychiatrist Karl Menninger's¹⁰ book with the title *The Crime of Punishment*,¹¹ for

⁴ Christie, *Limits to Pain*, 57.

⁵ See: https://en.wikipedia.org/wiki/Oliver_Wendell_Holmes_Jr, accessed August 23, 2024.

⁶ Herz, "Game," 111 - 161. There are variations to the quote and story as you may see, also variations in interpretations. The point for my purposes in the story — that *justice is a "game"* — is however undisputed.

⁷ Please see more on this in Chapter 3: "Restorative Justice: *Peacemaking Not Warmaking*; Transformative Justice: *Penal Abolitionism Not Prison Reform.*"

⁸ Update: this is now (2024), my fiftieth year!

⁹ See: https://en.wikipedia.org/wiki/Two_wrongs_don%27t_make_a_right, accessed August 23, 2024.

It was first published in 1969.

¹⁰ See: https://en.wikipedia.org/wiki/Karl_Menninger, accessed August 23, 2024.

¹¹ Menninger, *Crime of Punishment*.

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instance makes a broadly apt statement of their case, and a book favourably peer reviewed for decades.

When offenders were only in view — and in Western law for centuries they were the sole focus of the justice system — concepts of ‘just deserts’ and ‘penalty’ were paramount, concomitant with the need to attach appropriate guilt and blame.

The State’s duty was, with all euphemistic language stripped away, to inflict pain at a profoundly impersonal level. Norwegian criminologist Nils Christie wrote that Western state law was essentially ‘pain-law,’ concerned with ‘pain delivery,’ just like ‘milk delivery,’ to which his response was:

Dreadful!¹²

But the issue went deeper still. Apart from the profound feelings of injustice created by our system, the offender was simply mystified by the entire justice process. His clear perceptions were often that unfortunately he had been caught, and the *eye-for-an-eye* model (as mistakenly understood from the biblical precept¹³), had made justice dominantly ‘*tit for tat*’ — *retributive and punitive*. In our Western justice system models and processes, offenders had no confrontation with the victim(s), no chance to speak for themselves, and no moral, social, or economic considerations to face. The court system was highly adversarial, *designed* (simplified), *like the ancient Greco-Roman prototype, to apply the right rules to the right circumstances in the right way.*

The offender instead needed to be held accountable. This, of course, was not the whole story. He, or she, also needs *empowerment*, just as the victim does: *to gain a sense that what was happening to him or her was not all external imposition, with no requirement or even possibility of showing and expressing accountability.* But in Western state-imposed justice it was for centuries rarely otherwise.

Likewise, the crime perpetrator needed forgiveness and reintegration into society, which should include at least the opportunity to confess fully the harm(s) done, ask for forgiveness, repent, and commit to no further harmful activity. This needed to be done not in the abstract, but in the presence of, or somehow in direct linkage to, the victim(s).

Community and Conflict/Justice Stolen

The third category of those impacted by crime and the justice system was the *community*, repeatedly traumatized in particular by serious and violent crime. Instead, communities were left with a sense of little safety or reassurance in the wake of crime. As well, as Nils Christie expressed it: conflict/justice responses had in Western Law long since been stolen from the community.

Crime was defined in terms of ‘lawbreaking’ — *a breach of rules and regulations set by the state* — not of a *break of relationships between persons.*

Hence victims and offenders were really irrelevant — *as whole persons* — to the

¹² Christie, *Limits to Pain*, 15, 16 and 18.

¹³ I have spent an entire career writing and presenting about this. I’m still at it! This is the fourth book of my writings/presentations, in the series: *Justice That Transforms*; <https://waynenorthey.com/justice/justice-that-transforms/>, accessed August 23, 2024.

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proceedings. Likewise, this was generally so for the impacted community, which owned none of the process. In fact, Nils Christie trenchantly observed that the Western state had stolen all conflict from the community, leaving 'meting out justice' the sole prerogative of the state. Therefore, *personal feelings about crimes' impacts were largely irrelevant too.*

The Penitentiary: A Failed Experiment

Finally, the system was not working *vis à vis* its many attempted *reforms*. Soon after the Philadelphia Walnut Street Jail was repurposed as a penitentiary in 1790, the deep psychological harm done to its cloistered occupants became ubiquitously evident. Despite this, *the penitentiary model became the widest tool of crime control in the world.*

In the United States, as detailed by Nils Christie, crime control became a pervasive industry,¹⁴ whose human 'products' were deeply psychologically scarred. In the history of the reform of penitentiaries, there is a tragic story of co-option to the predominant historical ends of all penitentiaries: *punishment and security*.¹⁵ Hence for many European post-World War II criminologists who knew firsthand the experience of incarceration by the Nazis, the only alternative to the horror of penitentiaries was their abolition.

State versus Community Justice

There has been a long-standing dialectic between state and community justice stretching back to the Near East in ancient times. The Babylonian Code of Hammurabi of about 1754 BC, for instance, codified much community justice; though it came out smelling of state law.¹⁶

Biblical justice on the other hand, tended to transform even state law into community justice, adding a unique emphasis upon 'covenant,' casting all law in an '*apodictic*' (divine command), personal address form, largely unknown to other Ancient Near Eastern cultures. This led to many other instructive distinctions, which will not be discussed in this presentation.¹⁷

But our Western legal system did not really contain a consistent state law until the dawn of the 18th-century Industrial Revolution.

. . . the modern distinction between the criminal and the civil aspects of a wrongful act, and thus between punishment and compensation, was foreign to almost all European legal systems before 1800.¹⁸

Furthermore, while the state had its fairly consistent list of ten 'heinous crimes' — common to much of mediaeval Europe — it interfered little in what today would be called

¹⁴ Christie, *Crime Control*.

¹⁵ See, for example, Morris 1976, *Instead of Prisons*.

(https://www.prisonpolicy.org/scans/instead_of_prisons/, accessed August 23, 2024).

¹⁶ See Bruno Van Der Maat's *Ancient Practices for a New Justice*, Arequipa: Universidad Católica de Santa María, 2015. See also his chapter in this book: "Ancient Practices of Restorative Justice."

¹⁷ See, for example, Swartley, *The Bible and Law*.

¹⁸ Gatrell, Lenman, and Geoffrey Parker, "The State, the Community and the Criminal Law in Early Modern Europe," 12.

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‘criminal matters.’

From the 13th to the 19th centuries, there was only a gradual erosion of that strongly-held reluctance to prosecute before the courts. It was an *accusatorial* system, in which the wronged party was obliged to pursue personal redress of the crime. This was often tied in with the reciprocal violence of the blood feud, where some kind of monetary compensation became preferable to the actual carrying out of such retaliation.

In the 11th to 13th centuries, through a complex interaction of Church and secular law, an *inquisitorial* form of law began to emerge. This was due partly to the ‘Papal Revolution’ of Pope Gregory VII, and the codification of ecclesiastical law, which in turn led to the promulgation in 1234 of the *Decretals* under Pope Gregory IX, and partly to the rediscovery around 1100 A. D. of the Justinian codification of Roman laws. Beginning in the 11th century, a genuine Western revolution in societal understandings of Law was underway. It coincided with the founding of universities, that began to include studies in the new science of criminology.

An historian explains:

. . . the state began to replace the individual as the guiding force behind prosecutions, and this resulted in attempts to define the use and the meaning of evidence, as well as a change in the general structure of courtroom and judicial procedure. . . With the [eventual] appearance of the state as the sole source of prosecutorial energy, the criminal act could no longer be viewed as an attack by one person on another; *it was now an offence committed against society at large.*¹⁹

Regina in British common law which Canada inherited, *versus the individual*, gradually became the new state-centred justice system. I know for instance of a rape victim who fantasizes about calling the Queen on the anniversary of the rape to ask how the Queen is doing. . .

Crime was transferred from the private to the public sector. This, itself, accelerated in the 16th and 17th centuries and onwards in Catholic and Protestant Europe. Lutheran and Reformed churches embraced this trend, not raising any specific questions about it.

There had also begun in the eleventh century the emergence of an *atonement theology of "satisfaction"* under the influence of the treatise, *Cur Deus Homo (Why God Became Man)* by Anselm of Canterbury. Explains one author:

However broadly Anselm conceived justice, *reason* [on which his entire treatise was based, reason as function of the dominant feudal society to which he belonged — not reason function of *biblical interpretation*] required that he stop at the boundary of grace. God is bound by his own justice. If it is divinely just for a man to pay the price for his sins, it would be unjust, and therefore impossible, for God to remit [i. e. refrain from inflicting punishment as] the price. In *Cur Deus Homo* *Anselm's theology is a theology of law.*

Before the time of Anselm (and in the Eastern Church still) it would have been considered wrong to analyze God's justice in this way. It would have been said, *first*, that these ultimate mysteries cannot be fitted into the concepts and constructs of the human intellect; that reason is inseparable from faith — one is not the servant of the other, but

¹⁹ Weisser, *Punishment*, 100; emphasis added. See also Berman, *Law and Revolution*.

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rather the two are indivisible; and *the whole exercise of a theology of law is a contradiction in terms*. And *second*, it would have been said that it is not only, and not primarily, divine justice that establishes our relationship with God *but also, and primarily, his grace and his mercy; that is his grace and mercy, and not only his justice, which explains the crucifixion, since by it mankind was ransomed from the power of the devil and the demons of death — the very power which had procured the slaying of Jesus in the first place but which then itself was finally conquered through the resurrection.*²⁰

The Reformation attacked many ideas of medieval doctrine, but it never even pronounced doubts concerning the legitimacy of Greco-Roman [i.e. 'state punitive'] justice for a Christian culture.²¹

Another historian writes:

The main justification [for 'new concepts of sin and punishment based on the satisfaction theory of the atonement'] given by Anselm and by his successors in Western theology was the concept of justice itself. Justice required that every sin (crime) be paid for by temporal suffering; that the suffering, the penalty, be appropriate to the sinful act; and that it vindicate ('avenge') the particular law that was violated. As St. Thomas Aquinas said almost two centuries after Anselm's time, both criminal and civil offenses require payment of compensation to the victim; *but since crime, in contrast to tort, is a defiance of the law itself, punishment, and not merely reparation, must be imposed as the price for the violation of the law.*²²

The state emerged as supreme prosecutor for all criminal offences brought to its attention, *and a proliferation of gruesome penalties ensued, including the widespread use of torture, and the death penalty for a wide array of crimes*. Gatrell, Lenman and Parker comment:

This confusingly varied pattern of criminal legal practice. . . was produced by the interaction of two separate traditions of law. One. . . exalted restitutive justice and developed from the laws of the [indigenous] German tribes who invaded the Roman empire. . . *community law*. The other, to be called *state law*, emphasised punitive justice, and was rooted, at least in part, in the legal system of that Empire and its Byzantine successor. The gradual displacement of the former by the latter, a process which began in the 10th century and lasted until the 19th century, was one of the central (yet most neglected) developments of European history, *constituting a revolutionary change in legal methods and in the techniques of social control.*²³

The constituent elements of this revolution in Western Law were:

the separation of criminal and civil wrongs;

the assumption of the centrality of the state, thus moving all criminality to the public realm;

the assumption of harsh punishment as normative — i.e., 'pain delivery,' as a distinguishing mark of criminal law;

a move to formal rationalism and codification of law, displacing custom law.

²⁰ Berman, *Law and Revolution*, 180; emphasis added.

²¹ Bianchi, "Tsedeka-Justice," p. 308.

²² Berman, *Law and Revolution*, 183, emphasis added.

²³ Gatrell, Lenman, and Geoffrey Parker, "The State, the Community," 49-119. Though the 11th century is that mostly heralded when revolutionary change first began.

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Emergence of Restorative Justice

Restorative Justice then emerged in *direct challenge of such developments in Western Law*; also, in *contradiction of a satisfaction theory of the atonement*. Historian Timothy Gorringer explains:

Our fundamental hermeneutic principle must be derived from the overall *direction* of the New Testament documents. The central story they tell speaks of God's movement 'downwards and to the periphery, his unconditional solidarity with those who have nothing, those who suffer, the humiliated and injured'. This represents a diametrically opposite perception to the Roman view, which assumed that, as Caesar once said to his rebellious soldiers, 'as the great ordain, so the affairs of this world are directed.' The crucifixion of Jesus, on the other hand, constitutes 'a permanent and effective protest against those structures which continually bring about separation at the centre and the margin.' *It is this protest rather than an endorsement of expiatory sacrifice, which is the heart of the New Testament witness.* Turning Christianity into a cult centred on an expiatory death achieved long ago, and honoured in the present by other — or [inward] asceticism — represented an easy option, a refusal of the costliness of the gospel ethic, of a realization of the Jubilee prescriptions. The recovery of a text of protest and critique would serve to create quite different mentalities and structures of affect from those avowed by Christendom.²⁴

First Criminal Justice Jurisdiction Case of Restorative Justice

In 1974 two youths who had been drinking and had been "talked to" by the police already, took out their frustrations on the small community of Elmira, Ontario, Canada by doing damage to twenty-two different vehicles and homes. Several months later the youths pleaded guilty to the charges, and the Judge ordered a Pre-Sentence Report. The Mennonite Probation Officer writing up the report discussed the case with the local Mennonite Central Committee court volunteer. As it turned out, both had been reading recent publications by the Law Reform Commission of Canada in which it had been stated *that reconciliation should play an important role in criminal justice*. They also knew that *reconciliation* was the central concept of their Christian faith, one committed to a spirituality of *peacemaking*. They decided to suggest a novel sentencing idea to the Judge: *ordering offenders first to "make it right" with their victims*.

The Judge indicated that the notion had lots of merit, but it was simply unprecedented in Western jurisprudence. He made a fateful choice nonetheless when he decided *Why not?*; and put the sentencing over until the youths had met each of the victims who were open to the encounter. Out of that resultant positive experience arose the first ever 'Victim Offender Reconciliation Project (VORP),' later to become known widely as Victim Offender Mediation. It was also generally acknowledged as the first ever programmatic Western justice system expression of Restorative Justice in the modern world.

²⁴ Gorringer, *God's Just Vengeance*, 82; emphasis added.

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This so-called "Elmira Case"²⁵ was also a proverbial shot that echoed around the world. By happenstance, providential for me at least, two years later I became second Director of that first program, under Mennonite Central Committee Ontario. That launched me on a wonderful Restorative Justice journey ever since.

Ubiquitous Cultural Scapegoating Violence and Criminal Justice

Where did such violent notions of punishment originate?

When the above question is asked generically, even of all cultures, anthropologist René Girard argues that the *founding moment* of every society known to history is in fact *violence*. All human societies then employ a *scapegoat mechanism* in order to contain the violence and restore social cohesion.

Such a *scapegoat mechanism* arises to siphon the violence away from the community, thereby creating peace for a time for the rest of society. In ancient cultures, this kind of violence invariably took the form of religious myths, rituals, and prohibitions legitimizing violence against the scapegoated target or targets. In Christian cultures, this form of violence as indicated eventually was supported and spread by the *satisfaction theory* of the *atonement*.²⁶

In the secular West, the ultimate instance of the same dynamic in sheer numbers is the Holocaust. One can adduce myriad further examples:

destruction of indigenous peoples and cultures worldwide;
enslavement and oppression of Blacks in America;
mass murder of Tutsis in Rwanda, etc., etc., etc.²⁷

Girard claims there is no culture or society known to history free of this *foundational scapegoat mechanism*.

It was precisely over against the excesses of various forms of scapegoating violence that well-meaning Christian (mainly Quaker) philanthropists tried in 1790, in Philadelphia, Pennsylvania, to move away from *physical punishments* towards an emphasis instead upon *reformation* of the criminal. If only they could lock wrongdoers into a jail cell with a Bible and a rule of silence, surely the violence would cease, and the criminal would become 'penitent'! The new institution became of course known as a "*penitentiary*." The new *motive* was *rehabilitation*, not *retribution*. The first such "penitentiary" was the repurposed Walnut Street Jail in Philadelphia.

The idea caught on throughout the Western world like wildfire. But it soon became evident that, whereas former means of scapegoating administered *physical* wounds that eventually would heal, the penitentiary began to inflict *psychic* harms on offenders that rarely ever mended. Though not the intent, a *new scapegoat mechanism* arose in the form of the penitentiary that indeed tended to destroy the very *soul* and *self-worth* of the prisoner. Then where did that lost soul ever after fit into society?²⁸

²⁵ See a fuller account in Dean Peachey's "The Kitchener Experiment."

²⁶ Gorringer, *God's Just Vengeance*.

²⁷ See too, for instance: Williams, *The Complexity of Evil*; Smith, *The Most Dangerous Animal*; Fantina, *Empire, Racism and Genocide*.

²⁸ See a full account in Foucault, *Discipline and Punish*.

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Early in the development of Restorative Justice in Canada, Professor Vern Redekop²⁹ authored a widely received piece: *Scapegoats, the Bible, and Criminal Justice: Interacting with René Girard*.³⁰ It also received an *imprimatur* from René Girard himself.

In it Redekop posed the question:

Is it possible that what we call a criminal justice system is really a scapegoat mechanism?³¹

He then analysed Girard's thesis about ubiquitous cultural scapegoat mechanisms found in all historical periods and cultures. He answered the question he posed affirmatively, writing:

It [is] possible to think of the criminal justice system as *one gigantic scapegoat mechanism for society* (p. 33, emphasis in original).

He explained:

When one considers how much crime is unreported, how few crimes are brought to trial and among those how few result in conviction and prison sentences it turns out that we in Canada imprison in the order of 3% of criminals... This tiny percentage of offenders who are severely punished can be thought of as *a collective scapegoat for society*. Those individual criminals who warrant sensational news coverage, can function as scapegoats themselves.³²

In this context of criminal scapegoating, Restorative Justice poses perhaps the most troubling yet simple rhetorical question:

Why harm people who harm people to teach people that harming people is wrong?

The Restorative Justice vision moves away from a *warmaking*, "*stigmatizing shaming*" scapegoat mechanism to a "*reintegrative shaming*,"³³ *peacemaking* way of nonviolence in a bid to break definitively with the endless cycles of recurrent scapegoating violence in Western and

²⁹ Professor Redekop has been working creatively in conflict studies for decades. You may see more of his work, also in relation to René Girard, here: <https://www.cicr-icrc.ca/team/vern-neufeld-redekop>, (accessed July 22, 2024). There is also a LinkedIn profile: <https://www.linkedin.com/in/vern-neufeld-redekop-b012991b/?originalSubdomain=ca>, accessed August 23, 2024.

³⁰ Redekop, *Scapegoats*.

³¹ Redekop, *Scapegoats*, 1; emphasis in original.

³² Redekop, *Scapegoats*, 33 and 34; emphasis added.

Gil Bailie in *Violence Unveiled* supplies a particularly sinister example: the 1989 execution of serial killer Theodore Bundy, when hundreds of men, women and children camped outside the Florida prison in a festive spirit one reporter likened to a *Mardi Gras* (https://en.wikipedia.org/wiki/Mardi_Gras, accessed August 23, 2024). The same reporter described the event as:

. . . a brutal act . . . [done] in the name of civilization (cited in *Violence Unveiled*, 79).

Bailie reflects on that commentary thus:

It would be difficult to think of a more succinct summation of the underlying anthropological dynamic at work: *a brutal act done in the name of civilization*, an expulsion or execution that results in social harmony. Clearly, after the shaky justifications based on deterrence or retribution have fallen away, this is the stubborn fact that remains: a brutal act is done in the name of civilization. If we humans become too morally troubled by the brutality to revel in the glories of the civilization made possible by it, we will simply have to reinvent culture. This is what Nietzsche saw through a glass darkly. This is what Paul sensed when he declared the old order to be a dying one (1 Cor. 7:31). This is the central anthropological issue of our age (*Violence Unveiled* 79; emphasis in original).

³³ The classic book on this idea is Braithwaite, *Crime, Shame*.

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Western-based criminal justice.

Restorative Justice Practices

There is no one set of Restorative Justice practices. Its worldwide embrace and proliferation of programs have connected with many indigenous expressions of justice, and have been fitted appropriately into many cultures.

Rather than list several without giving further description, I will mention two such expressions I have personally been privileged to be part of.

CoSA: Circles of Support and Accountability³⁴

CoSA, in 1994 became a Canadian first. It was a response to sex offenders returning to society at the end of their sentence, when they *must* be released at what is called their ‘warrant expiry.’

A “Circle” involves a group of three to five screened, trained volunteers who commit themselves to support and hold accountable the ‘Core Member’ who is typically assessed as being high risk to re-offend. Because he has been held to the end of his sentence, he is returning to the community with little or no support available to him and often with much negative media attention.

The Circle meets together regularly and is guided by a written and signed agreement called a Covenant which outlines the responsibilities and expectations of the Core Member and his Volunteers, and includes the ‘promise’ of confidentiality as well as the limits of confidentiality. The Volunteers provide assistance with re-entry challenges (housing, employment, medical needs, etc.) The Core Member commits to open communication with the group regarding his identified risk factors and triggers, problematic behaviour, attitudes, etc., all in an effort to end his pattern of sexual offending and to increase public safety.

Volunteer members come from all walks of life, ranging in age from 21 and up. They are professionally supported by CoSA staff, generally a Board of Directors and advisors, and work in conjunction with community agencies and treatment providers like psychologists, parole or probation officers, the police, and courts.

In the summer of 1994, a man named *Charlie* was about to be released from an Ontario prison. Convicted of multiple sexual offences involving young boys, this was not good news for the residents of Hamilton, Ontario, Canada where Charlie was planning to reside. Moreover, some of *Charlie’s friends and congregants of a local Mennonite community church had no idea that they were about to change the way sex offenders considered “high risk” were received in Canadian communities and internationally.* Without appropriate supports and supervision, the probability that Charlie would harm another child was high. But the current criminal justice system had more or less run out of options in Charlie’s case. His release was imminent, there were no services for him and apart from police surveillance, there was little the community could offer Charlie. What could be done?

³⁴ The following is somewhat taken from the CoSA Canada website (<https://www.cosacanada.com/>, accessed July 22, 2024).

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The answer came from a circle of friends that had come around Charlie during the last time he had been out, and from Rev. Harry Nigh³⁵ and his congregants at a Mennonite church. Harry Nigh knew Charlie from the time when in Toronto he had headed a person-to-person outreach to prisoners, called ‘M2/W2 (Man to Man/Woman to Woman).’

Further, some of the people who had known Charlie the last time he had been released had been exploring ways of supporting Charlie this time, and had also been in contact with Reverend Nigh. The idea of a ‘circle of ongoing support’ caught — a ‘Charlie’s Angels Group,’ as Harry referred to it in his Minutes.

Members of this faith community responded by welcoming Charlie in their midst. Charlie presented many challenges to this first Circle, and soon they realized that the Circle needed to have an *accountability* component to go along with its *supportive* work. With that realization, the first “program” of what has now become ‘Circles of Support and Accountability (CoSA)’ came into being. Charlie never reoffended before he died, Christmas Day, 2000.

The roots of CoSA run deep within the faith community, and within the Restorative Justice community in south-central Ontario. A second circle in Toronto followed quickly on the heels of this first innovative response, on behalf of community members, to a serious threat to their collective safety. *And CoSA for the first time in the world was launched.*³⁶

Overall, the goals of Circles are to:

- support the Core Member’s community reintegration by facilitating his practical needs (i.e. access to medical services, social assistance/financial means, seeking employment/affordable housing, etc.) and by providing a consistent network of emotional support;
- develop constructive and pro-social strategies and solutions to everyday problems and concerns as well as celebrate successes; and
- challenge the Core Member’s behaviours and attitudes that may be associated with an offending cycle.

Evidence-based research³⁷ has consistently demonstrates that sexual re-offending rates for men who participate in CoSA are 80% lower than for men who do not. There have been additional studies internationally, with similar outcomes, though with generally smaller samples.

Restorative Justice: Rwanda Style

As most know, there was a meticulously planned genocide in Rwanda in 1994, when more than a million Tutsis were murdered by Hutus in 100 days. Contrary to common understanding, the genocide was *not* due to intertribal conflicts (there were no separate tribes

³⁵ See: <https://waynenorthey.com/2019/10/27/harry-nigh-started-groundbreaking-sex-offender-support-group/>, accessed August 23, 2024.

³⁶ It has spread since across Canada, to the United States, Great Britain, the European Union, South Korea, etc. In Canada, CoSA Canada (<https://www.cosacanada.com/>, accessed August 23, 2024) established a Board (on which I served for the first six years), and we finally received Public Safety Canada funding for an office in Ottawa Canada (2015), that partially supported 15 programs across the country. That office and Board continue the work, though government funding, as of 2024, is elusive.

³⁷ See for example Wilson, Cortoni and McWhinnie, “Circles of Support & Accountability.”

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in Rwanda), rather to class stratification, similar to that in the 1789 - 1799 French Revolution.³⁸ There is of course a longer story — *with European colonialism the antagonist*.

In spring/summer 2018, my wife and I were privileged to learn firsthand from three church-based agencies in that country about work carried on towards *reconciliation* against the backdrop of unimaginable genocidal horror.

There have been multiple such initiatives taken throughout Rwandan society:
at all government levels;
by NGOs;
by the churches;
by businesses; etc.

If *genocide* is a waking thought of many who lived through the mass murders, *reconciliation* is a ubiquitous goal heralded across the nation as well.

Reconciliation Villages

I will focus on only one Restorative Justice initiative, begun by church-based Prison Fellowship Rwanda³⁹: *Reconciliation Villages*.

What began as experiment in a pilot project in 2003, by 2018 housed over 4,000 families of both survivors and perpetrators in 820 homes and eight villages. Members of these reconciliation villages have chosen to step beyond *forgiveness* and embrace *reconciliation*. They have committed to living together, working together, caring for one another, and so on.

To my awareness, there is nothing of its kind elsewhere. The pilot project of fifteen years ago was deemed an incredible success, and has given rise to ever-expanding initiatives. Other countries have sent delegations to learn and possibly replicate.

In "A Post-Genocidal Justice of Blessing as an Alternative to a Justice of Violence: *The Case of Rwanda*,"⁴⁰ scholar and friend Vern Redekop juxtaposes a "**Justice of Blessing**" with a "**Justice of Violence**." He draws on his doctoral thesis-turned-book (introduced by Archbishop Desmond Tutu⁴¹) *From Violence to Blessing: How an Understanding of Deep-Rooted Conflict Can Open Paths to Reconciliation*.⁴²

Vern, in turn adducing again anthropologist René Girard, discussed above, states concerning a "**Justice of Blessing**":

Expressed simply, a justice of blessing is a structured way in which perpetrators commit themselves to take action diachronically [over the long haul] for the well-being of the survivors of their genocidal actions.

. . . when mimetic [imitative/imitated] structures of blessing infuse a relational system, people work toward the mutual well-being of one another. I am told of how [in pre-colonial times], at the village level in Rwanda, this was often the case; Hutus and Tutsis lived together with little regard for distinctions between them.

He contrasts this with a "**Justice of Violence**":

³⁸ See: https://en.wikipedia.org/wiki/French_Revolution, accessed August 23, 2024.

³⁹ See: <https://pfrwanda.org/>, accessed August 23, 2024.

⁴⁰ Redekop, "Post-Genocidal Justice of Blessing," 205 - 241.

⁴¹ See: https://en.wikipedia.org/wiki/Desmond_Tutu, accessed August 23, 2024.

⁴² Redekop, *Violence to Blessing*, 2009.

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The story is told of someone who went on to the afterlife and wanted a tour of the premises. She wanted to see hell first. She found grumbling, unhappy people who looked as though they were starving. There were tables of food in front of them but their forks were longer than their arms so they could not get the food in. She went on to heaven where she found happy, well-fed people. The tables of food were the same as in hell as were the long forks. The only difference was — they were feeding each other. . .

This story illustrates the difference between **mimetic structures of blessing** and **mimetic structures of violence**. In this fictional heaven people were contributing to each other's well-being; . . .⁴³

Vern is describing exactly what is happening in these amazing Reconciliation Villages.

At one point he emphasizes that there are three overarching prerequisites to building and buttressing a **Justice of Blessing**, one of which is that

. . . in the face of large-scale violent events, the various sub-processes need to take place within institutions that could include Truth and Reconciliation commissions. If there is to be a justice of blessing, this could demand an institution within which there is on-going follow-up.⁴⁴

In a prolonged discussion with retired Anglican Bishop John Rucyahana,⁴⁵ my wife and I wondered about *post-genocide reconciliation work* in Rwanda compared to *post-apartheid*⁴⁶ *reconciliation work* in South Africa.

The bishop indicated he was indeed respectful of the work done in South Africa since the end of apartheid. However, he then commented that no new institutions had arisen there to foster ongoing racial integration, apart from the soon-enough-terminated Truth and Reconciliation Commission. By contrast, in Rwanda, government, churches and NGOs, etc. have established many institutions through which there have indeed been attempts to create a "**Justice of Blessing**" culture and society that will endure over the long haul.

One can only add: Bishop John's insight is certainly so *à propos* in Canada!

Conclusion

My good friend Ruth Morris,⁴⁷ who died in 2001 not long after having received the Order of Canada, was always displeased with the term 'Restorative Justice', *because it was not radical, did not cut to the justice roots, enough*. Her preferred term was "Transformative Justice." A *Wikipedia* article explains:

Transformative justice is a general philosophical strategy for responding to

⁴³ Redekop, "Post-Genocidal Justice of Blessing," 205- 241; emphasis added.

⁴⁴ Redekop, "Post-Genocidal Justice of Blessing," 205- 241.

⁴⁵ See: https://en.wikipedia.org/wiki/John_Rucyahana, accessed August 23, 2024.

⁴⁶ See: "Apartheid," <https://en.wikipedia.org/wiki/Apartheid>, accessed August 23, 2024.

⁴⁷ See: *Wikipedia* (https://en.wikipedia.org/wiki/Ruth_Morris, accessed August 23, 2024); and the Preface of this book, to whom it is dedicated.

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conflicts. It takes the principles and practices of restorative justice beyond the criminal justice system. It applies to areas such as environmental law, corporate law, labor-management relations, consumer bankruptcy and debt, and family law. Transformative justice uses a systems approach, seeking to see problems, as not only the beginning of the crime but also the causes of crime, and tries to treat an offense as a transformative relational and educational opportunity for victims, offenders and all other members of the affected community. In theory, a transformative justice model can apply even between peoples with no prior contact.⁴⁸

As said, my writings are being published in this series (of which this book is the fourth): *Justice That Transforms* — the title chosen in Ruth Morris's honour. I also used the term, 'Inclusive Justice,' to capture the deep theology of the Cross.

After citing Ruth in a 1997 paper that I presented at a 'Justice Without Violence Conference' in Albany New York, which also launched a Restorative Justice journal, *Contemporary Justice Review*,⁴⁹ I concluded with the following. It is as pertinent now, and I again close with that paper's "Conclusion":

For a millennium the Judeo-Christian tradition has given the West a legacy of violence in response to crime. It need not have, according to its original trajectory path and its central character, Jesus. We need to revisit the powerful dynamic of subversion of all violence in that tradition, in order to internalize deeply the human story of *Inclusive Justice*, which is our cosmic destiny. Then we need to connect ourselves to it existentially with all the will, energy, and imagination we can muster. And one day, according to the biblical image of the Peaceable Kingdom,⁵⁰

The wolf will live with the lamb, the leopard will lie down with the goat, the calf and the lion and the yearling together; and a little child will lead them. The cow will feed with the bear, their young will lie down together, and the lion will eat straw like the ox. The infant will play near the hole of the cobra, and the young child put his hand into the viper's nest. They will neither harm nor destroy on all my holy mountain, for the earth will be full of the knowledge of the LORD as the waters cover the sea (Isaiah 11:6 - 9).

Amen!

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⁴⁸ See: https://en.wikipedia.org/wiki/Transformative_justice, accessed August 23, 2024.

⁴⁹ See: <https://www.tandfonline.com/journals/gcjr20>, accessed August 23, 2024.

⁵⁰ Edward Hicks (April 4, 1780 – August 23, 1849) was an American folk painter and distinguished religious minister of the Society of Friends (aka "Quakers"). He painted over 60 scenes of "*The Peaceable Kingdom*"! (Wikipedia – https://en.wikipedia.org/wiki/Edward_Hicks, accessed August 23, 2024). They are well worth viewing!

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