

8212:11/01

America Baptist Resolution on Restorative Justice

Situational Analysis

"The proper purpose of a criminal justice system is to protect society and individuals, including victims and offenders from seriously harmful or dangerous conduct from any source - corporate, governmental, legal, institutional or individual. From a Christian perspective, restoration must be included as a purpose of a criminal justice system. While we recognize that there are many people within the criminal justice system who, out of a sense of mission and concern for persons, try to make the system humane and just, we also recognize that under our current system the above purposes are not being met." (Excerpt from the American Baptist Policy Statement on Criminal Justice).

"Restorative justice" offers a framework with which to bring a reparative and holistic focus to the center of the criminal justice system. At its core, restorative justice views crime as a violation of people and relationships and justice as a process that actively works to repair those harmed by crime. Central to the justice process are victims, the harms that they experienced as a result of the crime and the resulting needs for reparation. The offender is held accountable to these harms and needs and encouraged to take responsibility for them, making things as right as possible with the victim and others affected by the crime. This process of repairing the harm to the victim has as an equal and parallel goal the restoration of the offender to the community. Restorative justice also provides an active role for the community as a facilitator of this justice which has a vested interest in the well-being and integration of victims and offenders within the community. This relational approach to justice invites victims, offenders and communities to be actively involved in the justice process.

Through an adversarial process which pits the offender against the state, the current criminal justice system is one which is designed to determine what law has been broken and set the degree of punishment to be meted out. Police officers, defense and prosecuting attorneys, judges and juries collect and examine evidence to determine what happened in the crime, the guilt of the offender and the punishment required for justice to be done. Observers have questioned whether the benefits of this system outweigh the social and financial costs to victims, offenders and communities.

In this process the state becomes identified as the victim, as indicated by "the state vs. offender" parlance, and is represented by the prosecuting attorney. The actual needs of the victim can become subordinate to or ignored by the process. Steps to ensure their safety and well-being are not often a goal. Restitution, the symbolic or practical payment for losses, can rarely be expected. Empowerment and meaningful involvement in the justice process can be elusive to a victim who needs to regain control of his or her life following the crime. The opportunity to tell the story of the crime and ask questions about it is limited by the procedures and protocol of the courtroom and justice process. All too often, the victim's needs for justice and healing from the crime are overshadowed by the

drive for punishment of the offender. Many victims feel that they are first victimized by the offender and then re-victimized by the criminal justice system.

A restorative justice experience for a victim begins when primary attention is given to the harms and needs that they are experiencing as a result of the crime. A victim's need for information, validation, vindication, restitution, safety and support take center stage over the law that was broken. The justice process provides opportunities for the exchange of information about the crime and its consequences. The victim is given the principal role in determining how that exchange of information will happen and can result in direct or indirect communication with the offender. Ultimately, the success of the justice process is determined by the degree to which the victims needs are met and restoration has been attained.

With the victim absent from the criminal justice process, the guilt of the offender and the resulting punishment take center stage. Often represented by an attorney, the offender's role is characterized by the entering of guilty and not guilty pleas, offering defenses for the behavior and responding to allegations of the prosecuting attorney. The goal is to either be found not guilty or, if found guilty, limit the punishment to which the state will sentence the offender. Due to the limited role of the victim, this process tends not be informed by the actual harms of the crime, often resulting in a sentence that does not hold the offender accountable for the consequences of the crime. Meaningful accountability includes understanding the harms of one's actions and being responsible for those harms by attempting to repair them.

The criminal justice system has increasingly relied on incarceration to punish offenders to significant financial and social costs. Currently, 2 million people are incarcerated nation wide, representing a 500% increase since 1972. This rate of incarceration has lead to annual spending in corrections, both public and private, in the amount of \$35-40 billion, a rate of approximately \$20,000 per person. The human and social costs of incarceration are also high. Periods of confinement are characterized by revenge and total control and often reflect persistent human rights violations, such as overcrowding, sensory deprivation, assaults and strip searches. The emotional environment is one of fear, boredom and hopelessness. Despite this approach to punishment and incarceration, there is little indication that it has lead to a decrease in crime. (Mauer, 1999; Consedine, 1999; Donzinger, 1996). There remain further questions whether incarceration meets the material, social and psychological needs of victims.

Racism and economics influence criminal justice, often at the expense of African American men and other ethnic minorities. Representing only 13% of the national population, African American men represent 50% of the prison population and are seven times more likely to be incarcerated than white men (Mauer, 1999). Studies have indicated that this rate of incarceration is not based on a predisposition to crime but rather is reflective of bias throughout the entire criminal justice system, from arrest to sentencing (Mauer, 1999; Donzinger, 1996). Race and justice becomes more complex when coupled with economics. The inability to pay bail or afford adequate legal

representation contributes to the incarceration of the poor, non-white population (Consedine, 1999; Mauer, 1999).

A restorative justice experience for the offender begins with his or her understanding of the harms and consequences of the crime and acceptance of responsibility for them. The offender is supported and encouraged to develop a plan for making reparations for the harms. Not intended as punishment or vengeance, this process of taking responsibility is directly related to the damages incurred in the crime. The justice process treats offenders with respect and invites them to take an active role. Restorative justice also encourages offenders to look at their own personal needs for healing and restoration, developing their competencies and integration into the community.

As neighbors, communities provide a home to those who come in contact with crime and the criminal justice system. Victims can feel unsafe, embarrassed, isolated or re-victimized by those around them, including when among their neighbors and loved ones. Offenders and their families can feel ostracized by the community and can carry their own feelings of shame. When faced with released inmates returning home, communities hope to welcome home newly productive and caring individuals, only to find that former inmates return home broken and bitter, having experienced little except violence and disrespect in prison. This has led to increasing fear of offenders and subsequent unwelcome upon their return. Communities also include employees of the justice system, from correctional officers to judges. Their work is grounded in the experiences of victims and offenders from which they cannot be shielded. Communities and their members are becoming increasingly broken and wounded due to crime and the criminal justice process.

Restorative justice recognizes that the community is a victim of crime and has needs for restoration. Invited into the justice process as victims, members of the community can tell their story of the crime, identifying their needs and engage in a plan for reparation with the offender. Communities also carry obligations toward victims and offenders. Restorative justice calls communities to support victims in the aftermath of crime and assist in the reparation of harms. Communities are also invited to take an active role in integrating offenders into the community, assisting in the definition of their obligations to the community and providing opportunities for them to make amends. The community is a facilitator of this justice process, contributing community resources for the well-being of victims and offenders and taking steps to strengthen the community to prevent similar harms from happening to others.

Biblical/Theological Background

Our criminal justice system is antithetical to God's justice and the biblical vision for our relationships with each other, even in times of wrongdoing. God's justice focuses on restoration of victims and offenders, not a justice of revenge and punishment as we currently practice it.

In the scriptures, God's love, manifested as both justice and forgiveness, is grounded in a vision for shalom, or peace through right and restored relationships. God calls us to live in a state of shalom with each other (Is. 32:16-18, 66:21-25; Micah 4:3-4, 7:18). Shalom is more than simply the absence of harm. Rather, it includes states of harmony, contentment and reconciliation. Harmful behavior, including crime, breaks shalom and violates people and relationships. Shalom must be restored, be made right, for justice to be done. There must be a return to harmony and wholeness through a process of reconciliation (Eph. 2:13-17; Col. 3:10-11; Gal. 6:1). God's justice is not measured by the degree to which someone has been punished for their crime. Rather, God's justice is measured by the degree to which relationships and shalom have been restored. God's justice aims to heal everyone involved in the transgression so that they can again live peacefully with their neighbors.

This process of putting things right focuses first and foremost on the harms and the needs of the victim. This victim orientation is exemplified by the story of the Good Samaritan (Luke 10:30-37) in which a battered man is given medical attention, compassion and hospitality following the crime. Making things right requires an understanding of these harms and needs. In order to achieve this understanding, we are called to engage in a process of dialogue with and listening to each other in order to talk about the offense and its consequences (Matt. 18:15-20; James 1:19; John 7:51; Proverbs 18:13). We are encouraged to speak truthfully about the offense (Eph. 4:15). God provides an example through a personal expression of the harms and consequences of our actions which break our relationships (Micah 6)

Biblical justice also requires personal responsibility for our part in the offense (Matt. 7:1-5). Restitution, or the paying back for damages, is present throughout the Bible, offering a way to take responsibility for our actions. Guidelines for restitution pertaining to a variety of offending behaviors are provided (Ex. 21-22) and the story of Zacchaeus offers a practical example of a man paying back when he cheated tax payers (Luke 19:1-10). We are invited, and expected, to take active steps to repair the damages that our actions cause others so that we may reconcile ourselves with each other and return to shalom.

While punishment is reserved for God (Romans 12:19), we are clearly called to be messengers of God's justice of restoration. This biblical justice is not just for our neighbors to do among themselves while we stand off at a distance. Just as we are loved, forgiven and reconciled to God, so we must love, forgive and be reconcilers among people (Matt. 6:12; II Cor. 5:16 - 6:2; Gal 6:1). We are called to be the embodiment of this justice of restoration for victims and offenders.

It is important to return to the biblical call for forgiveness in light of victimization. We often understand forgiveness to signify forgetting about the crime that happened. Forgiveness does not ever entail forgetting. For a crime victim, they will not ever forget what happened to them, nor should they. Forgiveness is about letting go of the power that the offense and the offender has over you. It is about empowering and taking control of one's life, control that was once given to the offense. This can be a powerful experience

for a victim. However, a victim cannot be expected to forgive the offender. The choice of forgiveness or realization of its presence is a personal experience which can only be determined by the person giving it. The definition and expression of forgiveness varies from person to person. We must suspend our judgement of those who are not able to or choose not to forgive.

Our role as witnesses and disciples of God's justice is not limited to just the relationship between victim, offender and their immediate communities. The vision for shalom and biblical justice is holistic and applies as well to those harms which people experience that contribute to crime or other social forms of violence. We cannot separate crime and victimization from its possible roots in structural violence for these roots break relationships and shalom. Our attention to victims should reflect a concern for the poverty in which our neighbors live, a poverty which has been linked to the committal of crime. In this case, we carry the obligation to address the social problems which make poverty a reality. We are invited to see the reality of racism not only within the criminal justice system but also within society as a whole. We are obligated to repair the broken relationships that contribute to the reality of racism and result from it. Just as we are reconciled to God, biblical justice requires that we be reconcilers among people, healing and transforming those harms that stem from our societal policies. Rebuilding shalom following a crime is only as successful as our ability to look after the welfare of our brothers and sisters and work toward right relationships throughout all of society.

As a sign of our prophetic calling, we call upon American Baptists, American Baptist churches and American Baptist organization to do the following:

- To be builders of God's shalom in response to the crime painfully experienced in our communities
- Where possible, to advocate for a restoration of relationships between victims, offenders and communities through the development of restorative justice practices.
- To recognize our calling to practice biblical justice in our own lives and communities.

As a sign of our pastoral commitment to a biblical and restorative justice, we commit ourselves our churches and other American Baptist organizations to do the following:

- Support and meet the needs of victims following crimes by becoming involved in programs which offer services to victims, such as victim/witness programs, victim impact panels and victim offender mediation programs.
- Support and meet the needs of offenders, including their need to understand the harms and damage of their crime, fulfill their obligation to repair the damages and receive assistance as they reintegrate into the community

- Advocate for restorative alternatives to incarceration
- Celebrate the work of prison chaplains and ministries.
- Engage the participants within the criminal justice system to encourage them to more adequately care for victims and offenders.
- Support for individuals who work within the criminal justice and correctional systems and increase the availability of resources for their compensation and training.
- Address systemic structures which lead to broken relationships by becoming involved in efforts to address discrimination and violence at all levels of society.
- Follow restorative justice principles of responsibility, accountability, dialogue and restitution in our personal, non-criminal lives.

Resources:

Boers, Arthur. Justice That Heals: A Biblical Vision for Victims and Offenders, 1992.

Consedine, Jim. Restorative Justice: Healing the Effects of Crime, 1999.

Donzinger, Steven. The Real War on Crime: The Report of the National Criminal Justice Commission, 1996.

Mauer, Marc. Race to Incarcerate, 1999.

Mennonite Conciliation Service. Mediation and Facilitation Training Manual, 1998.

Stutzman-Amstutz, Lorraine and Howard Zehr. Victim Offender Conferencing in Pennsylvania's Juvenile Justice System, 1998.

Van Ness, Dan. Crime and Its Victims, 1986.

Zehr, Howard. Changing Lenses, 1990.

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142 Yes, 0 No, 0 Abstentions

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Policy Base:

American Baptist Policy Statement on Criminal Justice (7034:12/83)

American Baptist Policy Statement on Violence (7046:6/98)

American Baptist Resolution on Reconciliation (8202:11/93)
