

Restorative Justice with Respect to Domestic Violence & Sexual Abuse

An article by Heather Block & Chris Lichti (unpublished; reprinted with permission)

There are many within our society who are struggling to find the best response to domestic violence and sexual abuse. Some look for societal change, some for individual healing; some look to the criminal justice system to provide protection and motivation for change; yet others long for a restorative justice response involving the victim, perpetrator, and community. How we respond depends on our underlying philosophies regarding the root of abuse, our understanding of justice, and our beliefs regarding how people change.

In recent years our society has begun to realize the importance of an interdisciplinary response to abuse and are learning from each other. One of the areas in which this is being done is looking at how our understandings of restorative justice and family violence theory interact.

While our traditional justice approaches tend to see crime as a violation of the state and seek punishment of the wrongdoer, a restorative justice approach sees crime as a violation of people and relationships and justice as repairing the harm done. Restorative justice attempts to involve the victim, wrongdoer, and community in the search for solutions which promote repair, reconciliation, and reassurance. While in recent history, restorative justice approaches have not been used for family violence situations, we want to look at how the above underlying principles would have a bearing on a healing response.

This integration of restorative justice philosophies and domestic violence/sexual abuse knowledge is not an easy one. Professionals in the social service community and court system have emphasized the complex and unique dynamics of abuse. These dynamics need to be taken into consideration when exploring the application of restorative justice models. Some of the dynamics of domestic violence and sexual abuse include that they:

- involve a power imbalance between the victim and the abuser;
- often require immediate intervention and on-going protection, to ensure safety of the victim;
- usually occur between people who are in intimate relationships (ie. marriage, parent/child, etc.) making it difficult to address safety requirements;
- are a reality that is frequently buried and kept a secret;
- are ongoing crimes that are deeply ingrained in the relationship and the abuser's way of thinking;
- require extensive intervention in order for change and healing to occur; and
- often continue without confrontation by key institutions in society (ie. political, legal, religious).

Voices for Non-Violence would like to develop restorative justice models which take these complex dynamics into account.

A chart highlighting retributive justice, restorative justice, and restorative justice as it applies to family violence situations follows on the next four pages. Although this third category is still in the developmental phase, its development has taken the dynamics of abuse, as mentioned above, into consideration. This comparison is intended to illustrate the uniqueness that is required when responding to abuse from a restorative justice approach.

Restorative Justice with Respect to Domestic Violence & Sexual Abuse

	Old Paradigm: Retributive Justice (Howard Zehr)	New Paradigm: Restorative Justice	Restorative Justice with respect to Domestic Violence & Sexual Abuse
1	Crime defined as violation of the state	Crime defined as violation of one person by another	Crime defined as violation of both one individual by another and relationship
2	Focus on establishing blame, on guilt, on past (did s/he do it?)	Focus on problem-solving, on liabilities and obligations, and on future (what should be done?)	Focus on the past, present, and future, with the abuser taking responsibility for the abuse. It is the responsibility of the abuser along with the support of the larger community to take action toward changing behavior.
3	Adversarial relationships and process normative.	Dialogue and negotiation normal.	Concern for the protection of the victim primary. Accountability of the abuser upheld.
4	Imposition of pain to punish and deter/prevent	Restitution as a means of restoring both parties; reconciliation/ restoration as goal.	Restitution as a means of restoring both parties -- restoration of healthy human beings as the goal. The development or restoration of an on-going violence-free relationship between victim and abuser may follow but is not necessary.
5	Justice defined by intent and by process: right rules	Justice defined as right relationships; judged by outcome.	Justice (Greek) as "a context in which persons seek to restore right relationship and provide for the needs of the one who has been made a victim by an [abuser], and to prevent the [abuser] from continuing to harm others."
6	Interpersonal conflictual nature of crime obscured, repressed; conflict seen as individual vs. state.	Crime recognized as interpersonal conflict; value of conflict recognized.	Crime recognized as a result of a combination of factors including the presence of oppression and sexism in society, socialization, inability to deal with emotions, and an individual's action against a vulnerable person. Impact of power imbalance on relationship between victim and abuser recognized.
7	One social injury replaced by another.	Focus on repair of social injury.	Focus on education, healing for the victim and abuser, and societal change.
8	Community on sideline, represented abstractly by state.	Community as facilitator, restorative process.	Community as intervener for the abuser, embracer /upholder for the victim, and ally in the healing/ change process for both.
9	Encouragement ' of competitive, individualistic values.	Encouragement of mutuality.	Encouragement of empowerment of victim and abuser towards lives free of violence.
10	Action directed from state to offender: victim ignored offender passive	Victim's and offender's roles recognized: • victim rights/needs recognized; • offender encouraged to take responsibility.	Victim's and abuser's roles recognized; victim given protection and opportunity for healing; abuser encouraged to take responsibility for action and given support to change behavior.

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11	Offender accountability defined as taking punishment.	Offender accountability defined as understanding impact of action and helping decide how to make things right.	Abuser accountability defined as understanding impact of action, agreeing to participate in a process to examine values, patterns, and taking action to change values and behaviors. Victim has voice in accountability of abuser. Community takes responsibility for hearing abuser's voice and holding him/her accountable.
12	Offense defined in purely legal terms, devoid of moral, social, economic, political dimensions.	Offense understood in whole context -- moral, social, economic, political.	Offense understood in whole context - historical, moral, social, economic, political.
13	Debt owed to state & society.	Debt/liability to victim recognized.	Debt/liability to victim recognized.
14	Response focused on offender's past behavior.	Response focused on harmful consequences of offender's behavior.	Response focused on harmful consequences of abuser's behavior.
15	Stigma of crime irremovable.	Stigma of crime removable through restorative action.	Stigma of crime removed through change in behavior and restorative action.
16	No encouragement for repentance and forgiveness.	Possibilities for repentance and forgiveness.	Possibilities for taking responsibility for violence and repentance. Forgiveness not an expectation but may follow in the victim's own time.
17	Dependence upon proxy professionals.	Direct involvement by participants.	Direct involvement of victim and abuser, with both given a safe place to speak. Others involved (eg. professional or lay people from the community) must have an awareness of dynamics of domestic violence.