

Victim-Centered Restorative Justice: An Essential Distinction

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It's a profound irony that Restorative Justice (RJ), an approach designed to support deeper understandings in our society, remains a polarizing and volatile issue between certain RJ practitioners and some of the victim advocates and victims/survivors they work with. The process that was supposed and intended to focus more on individual harms to victims and their "repair" – and on a more personal sense of accountability among offenders – has placed some victims at considerable risk of being emotionally re-victimized, or worse. The hope and promise of a sense of healing and justice for victims has been eroded by the attitudes of those practitioners who lack an adequate understanding of the victim experience at any level, not to mention the trauma and unrelenting symptomatology of PTSD in the aftermath of crimes of severe violence. Indeed, restorative justice has become increasingly synonymous with expectations of forgiveness and reconciliation instead of addressing harms and enabling accountability. This is not news to many victims/survivors and their advocates, but the situation is creating increasingly deeper divisions in the field.

It is not uncommon for such RJ practitioners to presume that they understand exactly what victims need – for themselves, and from offenders. Their refrains echo the traditional insensitivities: "You have to move on." "Forgive and forget." "Reconciliation brings healing." It's as if victimization and violation were merely clerical errors, instead of the fear-inducing or traumatizing – certainly life-altering – events that all victims know them to be. And it's understandable: most RJ practitioners have almost no education in victim assistance; yet they're often entrusted with the deeply sensitive task of working intimately with victims/survivors – and with offenders. The problem, it seems, is that the parameters for "best practice" in RJ have eluded precise description because the definitions of RJ are so highly subjective. That problem won't go away until some of the *language* of RJ becomes more precise.

Two recent speaking opportunities sharply illuminated this issue for me, and what I learned from each of these suggests that it's time to declare a critical distinction between restorative justice as we know it and *victim-centered* restorative justice. The broad confusions regarding what RJ is "about" appear too great to ignore anymore because they're engendering misunderstandings, disappointments, and arguments. At their most extreme, the presumptions of those who are unaware of victims/survivors' needs can leave them believing that *all* victims/survivors need and want (or *should* want) to "forgive" or "reconcile with," their offenders. And it's sometimes true that some victims/survivors *do* want these – among other things. But what we know they want first is for the offender to finally and actually comprehend what s/he has *done* to the victim, and to *know the pain* of it – as much as it's possible for another to know. Only then can the viability of "moving on," or "reconciliation," or even "healing" become a real – or desired – possibility.

In the addresses I recently delivered, the audiences were comprised of restorative justice stakeholders in one, and corrections educators in the other. In the former, I began my remarks by asking if anyone viewed offender restitution to victims as an act of restorative justice. No one nodded. Several heads shook in solemnity. One person spoke up, "No, because there's no buy-in from the offender."

“But wouldn’t the *victim* view restitution as an act of restorative justice?” I asked. A few of the listeners seemed to silently, if reluctantly, acknowledge the possibility. “Well, who is restorative justice *for*, if not the victim?” I asked. The answers varied between society, the victim, the offender, and all three. It’s still surprising how rarely RJ is seen and experienced as being anchored in the harms of victimization, but more as a solution to a knotty “community” problem – the “can’t we all just get along?” problem. To be fair, RJ is far more elegant and complex – and much more promising – than this, but it’s nevertheless often true that RJ is an easier answer for those *outside* the victim and advocate communities than it is for those *within* these communities. That’s my first argument for a victim-centered restorative justice distinction.

At the second address, to corrections educators interested in exploring the adaptation of RJ principles to their educational programs, I was one of three presenters. Among us were a specialist in restorative justice programs, a victim services coordinator, and myself, on the ways in which offenders often need a lot of help to “get it” about the victim/survivor experience. (Until they can see and hear a real victim/survivor – their own or another’s – speak honestly, they cannot begin to comprehend the real effects of their behaviors.) Each of us presented our points of view to the educators, but I suspect they left more confused than enlightened. After all, we were each talking about restorative justice, but two of us were speaking in one way (oriented toward addressing the needs of victims) while the other was speaking on the needs of offenders. We might have addressed this more thoroughly with more time and a panel moderator, but in the absence of an integrating agent, the listeners were left to contemplate their own orientations and biases. I came away with an unsettled feeling, worried that we in the field are not applying effective enough language to clarify or distinguish the needs of victims within the RJ context. After all, we were talking about the very same idea, but there were two completely opposite – and disconnected – points of view, which seems dangerous and wrong. That’s my second argument for a victim-centered restorative justice distinction.

I find myself spending a good bit of time explaining what I *don’t* do in the work of facilitating dialogues between victims of violent crime and their offenders. I’m *not* really a “mediator.” It’s not a conflict resolution; it’s a deeply complex and intimate interaction about a clear and unambiguous victimization, and I’m simply a facilitator, or guide. It *isn’t* about forgiveness and reconciliation – unless that’s what the victim/survivor genuinely wants and intends to do. Given the anger that many victims/survivors feel around the presumptions and expectations of RJ (there is nothing more ferocious than an outraged survivor), I’ve been trying hard not to use the phrase at all, and I’ve searched for an alternative phrase, like “responsive justice.” But that doesn’t seem to do anything much, either. There’s a lot to like about the word “restorative,” as long as it doesn’t insist on some kind of “balance” between the victim and the offender and the community, and as long as all that’s presumed to be “restored” is some sense of “justice.”

Surprisingly, it was at the National Victim Assistance Academy (NVAA) in Fresno, California last June that I began to realize that the answer lies not in coming up with an altogether new phrase, but in making the “victim-centered” distinction more clear. I was attending the six-day Academy with both experienced and aspiring victim service professionals, and with a rigorous and refreshingly victim-oriented faculty. Every once in a while the phrase “restorative justice” would come up. Because I was the only attendee actively involved as a practitioner in the victim offender dialogue field, the references to RJ would sometimes also refer to my work. It was an odd experience because I hadn’t been

expecting references to RJ in this context, and at first I wanted to say, “No, wait, I don’t usually use that phrase...” But I relaxed after a few mentions; we certainly didn’t need my philosophical exhortations on the issue to take up valuable curriculum time. And I remembered that victim service practitioners are going to be victim-centered in their work – period – or they’ll be removed from their positions. But I was no closer to a resolution of those ambiguous *meanings*.

Then, on the last day of the Academy, we engaged in a case study exercise on the continuum of victim services (from police officers to victim witness advocates to lawyers and judges) for a hypothetical but accurately depicted victim. With real-life participants from the surrounding community, the exercise was plenty authentic. Especially as the defense attorney for the accused began to imply blame of the victim for her own victimization, which was when I mounted my soapbox to ready a (barely) controlled protest. I understood that, in his role, he had only been pursuing his duty to zealously protect the Constitutional rights of the accused, but I found his implications against the victim, and against what he referred to as “corrupt” police work, to reach far beyond protection. And as I voiced my objections, Dr. Steven Walker, the lead NVAA faculty member, called our attention to the fact that what I was arguing for was, in fact, the essence of restorative justice – as distinct from the characteristics of “retributive justice.” In effect, he was suggesting, RJ’s focus on accountability swings both ways: everyone on the continuum must be accountable for his or her actions, and aware of the consequences of those actions upon others.

Yes, I thought to myself. That’s *right*. The principles of RJ require that we all understand the effects of our actions upon one another, that we take responsibility for those actions, that we comprehend the ways in which we harm others, and that we behave with basic respect for all. It was, for me, a sudden awakening to a wider definition of RJ, a way to accept its premises with less ambivalence, and in that moment I realized how powerfully elegant it would be to simply modify the term to *victim-centered* restorative justice. Those two words changed *everything*, and made the idea really *work*.

Now, the more I talk about it, the more it makes sense to me; the more the ambiguities recede. There is no longer a question about how restorative justice is defined when it’s victim-centered. And with that ambiguity gone, the promise of this approach for healing and justice and accountability returns. Not just for victims/survivors, but for offenders, and for the community, as well. The philosophy finally becomes properly *anchored* again.

Many victim advocates are understandably skeptical and wary of the biases and intentions of certain RJ practitioners. Helping victims/survivors find a small sense of justice and healing is hard enough work as it is. Enabling contexts in which offenders move toward a greater sense of personal accountability to their victims is also hard. But when we insist on a victim-centered restorative justice distinction we define our terms with utter certainty, and remove the ambiguity once and for all.