

TESHUVAH: RETURN

Crime Victims' Needs and Restorative Justice: Three Perspectives

Part of the contribution that we as clergy make to activism is in transforming culture. As moral and spiritual leaders, we have the ability to offer people new lenses for seeing the world, through one-on-one counseling, small group teaching, and preaching to a large audience. The field of restorative justice represents one such transformation, shifting assumptions about so many aspects of the justice system: who the players are, what their needs are, the goals, how we measure success. In the following essays, three Jewish leaders—two experts in the field and one rabbi—share what they have learned from engaging with restorative justice. When we teach these lessons in our communities, we are laying the groundwork for a seismic shift in the foundation of mass incarceration.

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“Connecting Hands.” Detail from Community Bridge (<http://bridge.skyline.net/history/>) by William Cochran. Photo by Jeff Kubina, Creative Commons License.

System: “Building a Justice System Rooted in Healing”

By Shari Silberstein

In my work to end the death penalty over the last 15 years, I’ve met and worked with many hundreds of family members who have lost loved ones to murder. Some supported the death penalty and others opposed it. But what united them all was the devastating trauma they experienced in the wake of their unimaginable loss.

“My daughters and I struggled with immense grief and the basics of day-to-day living,” said one EJUSA supporter about the murder of her son. “In our community there was almost no support available to help us pick up the pieces in our shattered lives. I learned the hard way that most victims are a mere afterthought in the criminal justice system.”

The assumption is that justice means punishment for someone who has done something wrong. A crime happens, law enforcement finds out who did it, the courts hand down a sentence, and the crime victim is healed.

So the story goes. The reality is much more complex.

The vast majority of crime survivors’ needs have nothing to do with what happens to the person who harmed them. These needs include medical assistance, physical therapy, trauma and grief counseling, relocation to a safe space, replacement of lost wages and other financial assistance, time off from work, help with funeral expenses, accompaniment to medical appointments, mental health services for an affected child, and so much more. Without meaningful assistance, victimization can impact physical and mental health, employment, education, and community safety. (See more on p. 44.)

Yet crime survivors are rarely offered more than an alienating legal process as the primary salve for their wounds. Our justice system’s near-exclusive focus on the person who committed harm, financially as well as psychically, robs crime survivors of the vital services they need to rebuild their lives. Ending mass incarceration by itself is not enough to heal the lives and communities impacted by violence and trauma.

Transformation requires us to expand beyond the “more vs. less” punishment question to build a justice system rooted in healing. That must include prioritizing and supporting those who have been harmed by crime to move through their pain and grief.

For those working to reform the criminal justice system, that starts with understanding and naming the trauma that crime survivors have experienced. It means recognizing that the justice system not only fails those incarcerated, but it fails survivors as much or more so. It means using language that is inclusive of both failures, and avoiding language that diminishes the reality of survivors’ pain. Most importantly, it means expanding the criminal justice reform agenda to include advocacy for resources and life saving services that will support survivors after tragedy strikes.

Shari Silberstein is Executive Director of Equal Justice USA (EJUSA), a national organization working to transform the justice system to one that heals and restores lives. They are best known for their leadership in ending the death penalty and building bridges between disparate constituencies, including crime survivors and criminal justice reformers. See ejusa.org for more information.

God: “Restorative Justice Helped Me Discover *Teshuvah* as Theology”

By Rabbi Avi Killip

I had always thought of *Teshuvah* as a practice, or a ritual. It was a guideline for what actions I could take to right a wrong; a process for conflict resolution. After a semester studying prison ministry, with the stories and challenges of the prison system in my mind and heart, and a closer study of Rambam’s *Hilchot Teshuvah*, I understand *Teshuvah* as much more than a practice. It is a theology.

A friend challenged me, “It sounds like for prison ministry you have to believe that there is no such thing as pure evil.” I disagreed. Instead, I offered, “It requires a deep and profound belief in the possibility for *Teshuvah*.”

When applied to the rather mundane conflicts of my daily life, *Teshuvah* is mostly just a good idea for maintaining healthy relationships. Even the biggest conflicts in my life, like asking forgiveness from a once-close friend after the relationship had painfully severed, or struggling to forgive family members after my parents’ divorce, had never pushed the limits of *Teshuvah* into the realm of theology. But prison ministry is different. While many people are in jail for nonviolent crimes, primarily drug abuse and dealing, there are also those who have done real wrong. I cannot hear about violent double homicides, thefts of millions, stabbings, shootings, rapes, child abuse, and not understand these acts to be evil—true רשע. I believe these wrongs fundamentally break the wholeness and stability of our world.

There are people in prison who have done real evil, and yet I feel called by their stories. I want to defend their humanity and demand that even for them there must be justice and kindness. Even murderers and rapists can feel alone and need a human touch. But if I am to be the minister, the chaplain, the rabbi, I have to consider a third party—God. I cannot bring the Christian God, loving father of all people, eternal sufferer, who sits in the solitary confinement with the afflicted sinner. That isn’t my God. I cannot look at a person whose crimes and sins are so great that they have no doubt distanced the person from God, and distanced all of humanity from God, and tell them, “God loves you and is there with you.”

But I believe in *Teshuvah*. *Teshuvah* inspires me to sit with even those who are furthest from God and help them to return, לשוב. Unlike the Christian image of a God who is always there, *Teshuvah* offers a human-divine relationship that fluctuates. It is a relationship that breaks and heals, only to break and heal again.

Perhaps the most crucial aspect of *Teshuvah* as theology for prison ministry is the freedom to begin the process from any point. No matter how far God may be from the person, there is always the potential to bring God near. No matter how deep and broken the person, knowing that God can be reached provides the eternal incentive to strive. *Teshuvah* has no prerequisites. The most unreformed of sinners can embark on the process with an entirely absent God. But once they begin, the process is the opposite, demanding from the person extraordinary soul searching, emotional vulnerability, and will to change. And demanding from God patience, forgiveness and healing of divine magnitude.

Rabbi Avi Killip lives in New York City, and works and teaches at Mechon Hadar. She studied prison ministry at Boston College, as a part of her studies at the Rabbinical School of Hebrew College.

Survivor: “Meeting the Needs of Crime Survivors”

By Danielle Sered

I have the privilege of directing Common Justice, a victim service and alternative to incarceration program based in restorative justice principles that works with serious and violent felonies. While it is clear to many how a restorative alternative to incarceration can benefit those who are diverted from prison into programs, what we know at Common Justice is that the impact for survivors can be at least as powerful as it is for those who cause harm. When we understand survivors’ needs in the aftermath of violence, this makes sense. These are some lessons we have learned that guide us in this work:

- Survivors deserve a process that keeps their needs at the center. After all, they are the ones most severely impacted by the crime and most likely to be frightened and in pain right after the incident and for months or even years to come. In fact, many survivors of crime suffer symptoms of depression, anxiety, and post traumatic stress. Restorative justice recognizes the importance of attending immediately to the needs of survivors, some who are still in a state of shock and acute crisis, and to adapting to their changing needs as time goes on.
- Survivors want a voice in how to address harm done to them. We know that for survivors, process matters: focusing on the process of arriving at an outcome in addition to the judicial sentencing itself is more aligned with how humans heal physically and emotionally, and how they recover from traumatic experiences. Trauma theory teaches us that nearly all people can benefit from certain things when they are harmed: to ask why, to express the harm they endured, to regain control and a sense of agency relative to the incident, to begin to assemble a coherent narrative regarding what took place, to have a say in the outcome, and/or to have that harm repaired in a way that is responsive and meaningful to them. When someone has suffered serious trauma and/or sustained a serious injury, those needs are even more urgent and more acute, and it therefore can be even more impactful when they are responsibly and compassionately met. As one Common Justice harmed party put it: “I knew immediately when I was robbed at gunpoint that I didn’t want those boys to go to prison, but I wanted something. I needed something. I wanted them to face me man-to-man, human-to-human. I wanted to know they would do something with their lives so they’d never do this to anyone again. And I wanted to have some say in what that might be.”

- Healing from loss and trauma is a gradual and evolving process. Survivors of trauma typically experience feelings of shock, anger, sadness, denial, and desperation before reaching acceptance. Restorative justice allows the time for survivors to go through the necessary stages in their healing process. It is responsive to the needs of survivors to have their feelings heard and validated, to develop the appropriate natural coping mechanisms, to ask for additional support and finally to begin to make steps to feel whole again. Unfortunately the traditional court process is limited by its nature to have to aim for speed and is all too often poorly equipped to support or advance the natural stages of healing.⁴⁹⁹
- Survivors deserve options that resonate with their sense of safety and justice. Survivors differ in their experience, culture, healing process, values, and desires, but all survivors want options. Almost all survivors care both about their own safety and about the safety of others—they do not want to be hurt again, and they do not want anyone else to go through what they experienced. While some survivors do believe in incarceration, many others do not feel it is the best way to keep themselves and others safe from harm. Restorative alternatives to incarceration allow survivors the opportunity to see the people who harmed them held accountable for their actions in a way that is likely to keep them and others safe.⁵⁰⁰ Alternatives to incarceration overall are shown to reduce recidivism significantly as compared with jail and prison.⁵⁰¹ And restorative justice, when accompanied by appropriate preparation and support, has been shown to increase survivors' sense of safety as compared to incarceration. In expanding the range of options available to survivors, we can increase the portion of survivors who experience justice and safety as a result of their decision to engage law enforcement—and can increase the chances they will heal through the harm they survived.

Danielle Sered is Director of Common Justice, an organization that develops and advances solutions to violent crime that transform the lives of victims and foster racial equity without relying on incarceration. In Brooklyn, it operates the first alternative-to-incarceration and victim service program in the United States that focuses on violent felonies in the adult courts. Nationally, it leverages the lessons from our direct service to transform the justice system through partnerships, advocacy, and elevating the experience and power of those most impacted. See more at <http://www.vera.org/project/common-justice>.

⁴⁹⁹ This study found a 37% reduction in PTSD symptoms for those who went through restorative justice, compared to the standard court process: Caroline M. Angel. *Crime Victims Meet their Offenders: Testing the Impact of Restorative Justice Conferences on Victims' Post-Traumatic Stress Symptoms*. A Dissertation in Nursing and Criminology at the University of Pennsylvania, 2005.

⁵⁰⁰ Studies have shown an 80-90% satisfaction rate for crime survivors who have participated in restorative justice, compared to rates around 30% for the courts. Kilpatrick, D. and Acierno, R. "Mental Health Needs of Crime Victims: Epidemiology and Outcomes." *Journal of Traumatic Stress*, 2003:1612; National Center for Post Traumatic Stress Disorder. 2004. *PTSD in Children and Adolescents*. Washington, D.C.: Department of Veteran Affairs; PTSD Alliance, "Post Traumatic Stress Disorder Fact Sheet," the Sidran Institute (2004), available online at <http://www.sidran.org/sub.cfm?contentID=76&ionid=4>.

⁵⁰¹ A meta-analysis of multiple participatory justice programs found a 34 percent reduction in recidivism for participating defendants; some studies report even better results for individual projects: Mark S. Umbreit, Robert B. Coates, and Betty Vos, "The Impact of Victim-Offender Mediation: Two Decades of Research," *Federal Probation* 65, no. 3 (December 2001).