

Restorative Justice and Victims' Rights

The victims' rights and restorative justice movements are working to reframe the criminal justice system to focus on forgiveness and on reintegrating the perpetrator into society. This approach mirrors the Jewish concept of *teshuvah*, a return to one's best self. In Jewish thought, *teshuvah* happens through a reconciliation with the person harmed, and through a commitment not to do the act again.

Someone who has experienced crime has a variety of needs ranging from the immediate to the long-term, the mundane to the profound. These may include medical attention, recouping financial losses, new locks on the doors of a house, satisfaction that the perpetrator has been punished, childcare, and rebuilding a sense of safety and trust in the everyday environment.

The "typical" victim's rights movement tends to be "tough on crime," white, and upper-class, and to work from the assumption that crimes are committed by poor people of color.²⁰⁹ The reality, however, is that people of color are more likely to be victims of crime than white people, and most crime is committed within racial groups rather than across them.²¹⁰ These understandings are not just rhetorical but are also built structurally into victims' services, rendering services inaccessible to many people who need them. For instance²¹¹:

Teshuvah

"Rabbi Abahu bar Ze'ira said: Great is *teshuvah*, for it existed in the world before Creation" (Genesis Rabbah 1:4). Commenting on this midrash, Rabbi Adin Steinsaltz (born Jerusalem, 1937) writes: "The implication of this remarkable statement is that *teshuvah* is a universal, primordial phenomenon...It is embedded in the root structure of the world...Before we were created, we were given the possibility of changing the course of our lives."²⁰⁸

- Services based in prosecutors' offices may not kick in if the crime is not solved, or may end when the trial ends.
- People of color may have less access to services offered through law-enforcement because of poor relationships between their communities and police.

- Services may be restricted to "innocent" victims, so if drugs or gang activity are suspected (a suspicion that can be leveled with little evidence), family members who themselves were not involved in the alleged crime may be barred.

- Domestic violence or rape crisis shelters may be unfriendly to women of color or LGBT women.
- No specialized structures exist to serve young men of color, the demographic most likely to be harmed by crime.

- Most crimes go unreported, and many victims don't even know that services are available.

Another shortcoming of the court system is that it does not incentivize accepting responsibility for harm or ameliorating it. The prosecutor's job is to punish the accused, while the defense attorney works to get him/her off, and if not that to minimize punishment.²¹² It is an adversarial, zero-sum system, not one designed to bring about any healing or reconciliation.

208 Quoted in *Kol HaNeshamah Machzor*, p. 8.

209 For a counter-example, see Californians for Safety and Justice, <http://www.safeandjust.org/>.

210 "Bridging the Divide: A New Paradigm for Addressing Safety, Crime, and Victimization." Pat Clark et. al., 2014, p. 13.

<http://www.safetyandjustice.org/files/Bridging%20the%20Divide%20-%20Full%20Report.pdf>

211 "Bridging the Divide," p. 10.

212 "Bridging the Divide," p. 15.

Restorative justice offers an alternative. The term is used variously to refer to specific protocols and to the general approach. Restorative justice starts by believing that three groups need to be served after a crime has been committed (or after harm has been caused—some groups steer away from the word “crime” because it is defined narrowly and technically by the criminal code and misses many kinds of harm that one person can cause another). The person harmed has new needs that must be met.

The person who caused the harm needs to be held accountable. And the public, which was the context for the harm, needs to be made whole. The process—which relies on the willingness of the injured party to participate—brings together these constituents with a trained facilitator, who helps them reach a series of agreements about how the harm is to be rectified. Most restorative justice programs operate only on nonviolent crimes; the organization Common Justice, in Brooklyn, NY, is currently the only one in the US that also works on violent offences.

Another example of a restorative justice approach—COSA, Circles Of Support and Accountability—works to help sex offenders not reoffend. Pioneered in Canada in 1993, it is being implemented in California²¹³, and is also a formal part of Vermont’s criminal justice system. Through COSA,

volunteers meet on a regular basis with the returning citizen to discuss all aspects of his life and support pro-social behavior. Though the research is a little spotty, it suggests that COSA can reduce sexual recidivism by 60-80%. More anecdotally, one minister who has run 60 COSA’s in California has only had a single man reoffend, and that was after he left his group.²¹⁴



Victim Support Services

Moving to more restorative justice models, which embrace a wider view of how to address social harms, enables society to hold offenders accountable in more humane, sustainable, and effective ways, while also better meeting the needs of crime victims.

Sample Partner Organizations

- Murder Victims’ Families for Human Rights
- Many local groups—for instance:
 - Philadelphia—Mothers in Charge
 - Oregon—Partnership for Safety and Justice
 - Albany—Urban Grief
 - San Francisco—Healing 4 Our Families & Our Nation

²¹³ <http://www.psmag.com/health-and-behavior/after-a-child-molester-has-been-set-free-where-does-he-go>
²¹⁴ <http://www.psmag.com/health-and-behavior/after-a-child-molester-has-been-set-free-where-does-he-go>