one British prison, after unsuccessfully attempting to challenge the introduction of new, extremely coarse toilet paper through theft and protest, were able to successfully draw on their gender identity and needs as women to pressure the institution to reverse its decision.

Finally, collective resistance includes the work of prison authors who assume narrative authority and speak to the experiential reality of imprisonment. Employing a range of genres, including in-house magazines, the penal press, academic magazines like The Journal of Prisoners on Prison, and autobiographical or analytic accounts of prison life, such as Victor Hassine’s (1996) book, Life Without Parole: Living in Prison Today, these authors challenge the hegemonic official discourse of prisons and raise public consciousness through their writings.

INDIVIDUAL RESISTANCE

Not all resistance is collective. Prisoners also operate in their own, personal interests as they employ tactics to assert their agency and contest the conditions of their incarceration. These tactics may include exceptional dramatic acts such as assaults on staff, suicide, and (particularly in the case of women) starvation and self-injury. Sometimes resistance is literally scripted onto a prisoner’s body. Not only is the act of acquiring tattoos an open challenge to prison directives, but the extensive tattoos that decorate many prisoners’ bodies speak to countercultural allegiance. Some, such as “guilty until proven innocent” articulate and assert an antiestablishment discourse.

While exceptional acts can be powerful statements, the power relations characteristic of prison and the vulnerability of prisoners may render subtle everyday acts of resistance such as education, withdrawal, passive nonengagement in rehabilitative programs, illicit sexual relations, substance use, the fostering of subversive worldview and prisoner culture more viable, prudent strategies for retaining autonomy and asserting agency. For many prisoners, identity politics become the basis for, and tactic of, these everyday acts, such as demanding special meals in keeping with their religious beliefs.

CONCLUSION

It is important to remember the limits of resistance. Care must be exercised not to impose meaning and political significance by defining all acts by disempowered prisoners as resistance without attending to questions of intent, meaning, and subjectivity (Bosworth & Carrabine, 2001). Moreover, we must appreciate that while prisoners’ capacity to resist is necessarily shaped by their imprisonment, the strategies employed are in turn conditioned by their access to resources including cultural capital, social status, legal advice, economic resources, position within prison hierarchies, as well as their individual characteristics including their gender, race, nationality, and institutional location. For instance, prisoner associations founded on religious or ethnic affiliation, such as Native brotherhoods, Native sisterhoods, and the Black Muslims, provide individuals with emotional support, the basis for identity politics, and emerge as a common voice to further the rights of Aboriginal and Muslim prisoners.

—Chris Bruckert

See also Eighth Amendment; Michel Foucault; Fourteenth Amendment; Prison Literature; Prison Litigation Reform Act 1996; Prisoner Litigation; Riots; Violence; Women in Prison

Further Reading


RESTORATIVE JUSTICE

Restorative justice provides an alternative framework to the adversarial-retributive justice model for
dealing with offenders. In restorative justice models, victim needs are central, offenders are held accountable, and the government is a secondary player in the process of restoring victims, offenders, and communities to a state of wholeness. Emerging in its contemporary form in the 1970s, restorative justice gained widespread recognition in the 1980s, and by the 1990s became part of mainstream correctional policy and practice in the United States and countries around the world. Today, restorative justice has converged with the notion of community justice to become an alternative way of thinking about and responding to crime.

Proponents of restorative justice argue that community members should play a crucial role in dealing with the aftermath of crime, enhancing public safety, and furthering the goals of social and criminal justice. Strategies that have become central restorative justice paradigms include victim-offender mediation and reconciliation, family group conferencing, peacemaking and sentencing circles, and surrogate encounter programs. A challenge for the future is to determine how restorative programs, policies, and practices can meaningfully function within the retributive framework of U.S. corrections and better meet the needs of victims, offenders, and citizens.

HISTORY

The term “restorative justice” was coined by Albert Eglash in a 1977 article, “Beyond Restitution: Creative Restitution,” in which he identified three types of justice: retributive, distributive, and restorative. Ideas of restorative justice gained widespread recognition in the 1980s, and by the 1990s had been integrated into some mainstream correctional policy and practice in the United States, Canada, New Zealand, Australia, Great Britain, and other countries around the world.

Support for restorative justice arose from multiple forces, including public dissatisfaction with the criminal justice system, the victims’ rights movement, feminist critiques of patriarchal justice, peacemaking, and critical criminology, and the shift toward community justice endeavors such as community policing and community corrections. Rising crime rates, a fairly widespread belief that the correctional system was ineffective in reducing recidivism, and public discourse and activism by victim’s rights organizations laid the groundwork for acceptance of a new model of justice.

DEFINITION OF RESTORATIVE JUSTICE

Unlike the adversarial-retributive model upon which the U.S. criminal justice system is based, proponents of restorative justice view crime as harm that must be repaired through a holistic process involving victims, offenders, and citizens. In this endeavor, the government is charged with preserving order while the community is responsible for restoring peace. Restorative justice aims to address the natural antagonism among the rights, needs, and interests of offender and victims through programs, policies, and practices that work to restore victims, offenders, and communities harmed by crime.

Central features of the restorative justice model include the definition of crime as a harm; focus on problem solving, resolution through dialogue, negotiation, restitution, and reparation; community involvement and social action; recognition of victim rights and offender accountability; holistic understanding of the offender; reintegration rather than stigmatization, possibilities for repentance and forgiveness; and direct involvement of participants. The following table summarizes primary differences between the retributive and restorative models:

<table>
<thead>
<tr>
<th>Retributive</th>
<th>Restorative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crime = legal violation</td>
<td>Crime = harm</td>
</tr>
<tr>
<td>Wrongs create guilt</td>
<td>Wrongs create obligations</td>
</tr>
<tr>
<td>Debt abstract/punitive</td>
<td>Debt concrete/reparative</td>
</tr>
<tr>
<td>Blame/retribution central</td>
<td>Problem solving central</td>
</tr>
<tr>
<td>Victims needs ignored</td>
<td>Victims needs central</td>
</tr>
<tr>
<td>Offender stigmatized</td>
<td>Offender reintegrated</td>
</tr>
<tr>
<td>State monopoly on response to wrongdoing</td>
<td>Victim, offender, citizen roles recognized</td>
</tr>
<tr>
<td>Battle/authoritarian model normative</td>
<td>Dialogue/reconciliation normative</td>
</tr>
</tbody>
</table>
Related concepts and terms sometimes used synonymously with restorative justice include “community justice,” “relational justice,” “indigenous justice,” “balanced justice,” “responsible justice,” “transformative justice,” and “real justice.” The notions of restorative and community justice have converged in recent years, and some now refer to “restorative community justice” as a paradigm shift reflecting the trend toward increased community involvement in different stages and components of the justice process incorporating multiple theories (e.g., routine activities, restorative justice, balanced justice, reintegrative shaming) and practices (community policing, conferencing, circles, juvenile and adult intensive community aftercare) with the goal of restoration, improvement of quality of life in communities through government–community partnership, and active involvement of victims, offenders, and citizens in the justice process.

CURRENT PRACTICE

Today, three distinct (though increasingly blended) models—victim offender conferences, family group conferences, and circles—dominate the practice of restorative justice. Family group conferences (FGC) originated in New Zealand in the 1980s and are the primary means of justice for dealing with juveniles there. Circles (sometimes called peacemaking circles) emerged from First Nation communities in Canada. Victim–offender mediation (VOM), reconciliation programs (VORP), and conferences (VOC), of which there are more than 1,000 worldwide, are the most widespread. These programs, which began in the 1970s in the United States and Canada, bring together the victim and the offender with a trained mediator to talk in order to somehow resolve and heal the hurt caused by the offense. The perpetrator may also be asked to provide some kind of financial reparation. VOM and VORP, conferences, and circles are offered at different stages of the criminal justice process including diversion, sentencing, community supervision, and institutional programs. Other programs and practices sometimes referred to as restorative generally include victim impact panels, victim awareness programs, and community reparative boards, whereby citizens are involved in working out reparative agreements (usually with nonviolent offenders).

Although VOM and VORP are considered the most widespread application of restorative justice, restorative justice is not just mediation. Sometimes it is not desirable or possible to bring the victim and offender together. For example, it may be that such an encounter would further harm the victim. Likewise, both parties are not always willing or interested in doing so. When this happens, conferencing or peacemaking circles that enable offenders and citizens to discuss issues of accountability and understanding without the victim present can occur.

Unlike victim–offender mediation or reconciliation programs, family group conferencing and circles involve a large and diverse range of people in the attempt to deal with an offense. Conferencing, for example, can include victims and offenders and their family members, as well as unrelated victims and offenders. Circles generally involve victims, offenders, family members, community members, and facilitators who, arranged in a circle, pass a “talking piece” to assure that each person gets a chance to speak without interruption.

RESTORATIVE JUSTICE AND CORRECTIONS

Restorative justice has emerged as a central issue for corrections in the 21st century and has been formally included in the mission and vision statements of a number of state departments of corrections (e.g., Minnesota, Washington, Oregon, Vermont) and correctional agencies throughout the United States. It has also been incorporated in Canada, New Zealand, Australia, Great Britain, and elsewhere. The application of restorative justice principles to correctional practice entails using the community to deal with some of the consequences of crime (including victim and offender needs), enhancing public safety, and furthering the goals of social and criminal justice.

Restorative correctional programs, practices, and policies provide opportunities for victim and community participation in surveillance,
treatment/rehabilitation, reentry/reintegration of offenders, and for offenders to take steps to make amends and/or repair harms resulting from their crimes. Correctional practices embodying the principles of restorative justice exist across the correctional continuum in community and custodial contexts. However, determining whether a program or practice is restorative is a matter of some debate. Howard Zehr (2002, p. 55) suggests that restorative justice models can be viewed along a continuum from fully restorative to pseudo- or nonrestorative and proposes six questions to assess the extent to which a program, policy, or practice is fully, mostly, partially, potentially, or pseudo-restorative:

1. Does the model address harms, needs, and causes?
2. Is it adequately victim oriented?
3. Are offenders encouraged to take responsibility?
4. Are all relevant stakeholders involved?
5. Is there an opportunity for dialogue and participatory decision making?
6. Is the model respectful to all parties?

From this perspective, conferencing, circles, surrogate encounter programs, and reparative boards can be considered fully restorative, while victim impact panels in a correctional setting (generally involving a one-way presentation of information) can be considered partially restorative. Community service, work crews, and offender reintegration programs can be considered potentially restorative, but unless such programs are consistent with the fundamental principles of restorative justice—involving all stakeholders, collectively identifying and addressing needs, harms, and obligations in an attempt to make things as right as possible, then such programs could in fact be pseudo-restorative. For example, a recent development in Washington State is the implementation of the “victim wrap-around process” whereby a committee of victim advocates, victims of crime, community members, and state correctional officials develops a supervision plan for offenders released into the community. However, for the protection of victims, offenders are not part of the process. Is this practice fully, partially, potentially, or pseudo-restorative? While the victim is seen as central to the process, the exclusion of the offender may place the practice on the pseudo- or nonrestorative end of the continuum.

Variations of VOM, VORP, and VOC have emerged that extend the concept of encounter and mediation to meetings between surrogate victims and incarcerated offenders in institutional corrections contexts. For example, a program developed by Howard Zehr in Graterford Prison in Pennsylvania in the early 1990s involved encounters between members of the “Lifers” and family members of homicide victims interested in engaging in dialogue and asking questions of offenders. The program provided a forum for victims who were unable to meet with the offenders in their cases to ask questions of surrogate offenders for the purpose of healing and/or understanding. Other programs involve bringing together unrelated victims, offenders, and citizens in prison settings to read educational material on restorative justice, engage in “storytelling” and seminar-style discussions about the impact of crime, offender accountability, the needs of participants, and concrete ways to engage in the restorative process (Helfgott et al., 2000). Restorative justice is increasingly being applied to correctional settings involving adult violent offenders.

More restorative justice-oriented correctional options are available today than ever before. While victim–offender mediation (specifically with juvenile property offenders), victim impact in sentencing and parole decisions, and the use of restitution and community service as a sanction have existed for many years, newer programs and practices such as surrogate encounter programs in custodial settings, victim–offender reconciliation involving violent offenders, community reparative boards, peacemaking circles, and conferencing offer creative and hopeful alternatives to the traditional correctional options of the retributive model. These restorative correctional options enable the principles of the restorative justice model to be applied, in whole or in part, across the continuum of correctional contexts with different types of offenders.
ISSUES AND CHALLENGES

Central issues for the future of restorative justice include determining how and if restorative and community justice-oriented programs and practices can meaningfully function within the larger adversarial-retributive justice framework, accumulating empirical research on the effectiveness of the range of restorative justice-oriented programs with different types of offenders across correctional contexts, and ensuring that victim needs are met and that victims and their families are not further harmed by restorative correctional endeavors.

In the United States, restorative correctional practices are hindered by the dominant adversarial-retributive model. A fundamental issue is how and if restorative programs, policies, and practices can be implemented within the retributive framework. Proponents of the restorative justice model have been criticized for minimizing or discounting the fundamental differences between the retributive and restorative justice paradigms. Critics argue that conflicting principles and practices of the two paradigms make it impossible to implement restorative justice within the retributive justice framework, that restorative justice-oriented programs implemented within the existing criminal justice system are not truly restorative, that the restorative justice model is idealistic and utopian, and that some programs operating under the guise of restorative justice are actually harmful to victims and/or do not voluntarily solicit victim involvement (e.g., in the case of domestic violence and/or sexual assault where there are power or control issues between the victim and the offender that may be exacerbated by the restorative process).

Others suggest that despite the praises that surround restorative justice, little empirical research exists to support its benefits. Kathy Daly (2002) argues that the “real” story about restorative justice is much more qualified than the mythical one. She suggests that there are limits to “repairing harm,” that restorative justice approaches are less successful than advocates suggest in terms of their ability to enhance understanding and sincere meaningful dialogue between victims and offenders, and that restorative and retributive justice models are not necessarily as divergent as restorative justice advocates contend.

Another criticism is that many programs and practices based on restorative justice principles are not cost effective and/or have not proven to reduce recidivism. However, others suggest that the goal of restorative justice is not to reduce cost or recidivism, but to do the right thing. Recidivism reduction may be a byproduct but not the fundamental objective of the restorative process, and the multidimensional goals of restorative justice may be best measured through personal and interpersonal offender development, offender adaptation and reintegration, victim healing, and citizen and victim fear of crime. Assessing the impact of restorative justice-oriented correctional options depends on the accumulation of empirical data. While much of the information regarding the impact of restorative justice programs has been anecdotal, there is a growing body of empirical research suggesting that these restorative correctional options enhance understanding between the polar groups affected by crime, reduce fear of crime among victims and citizens, provide opportunities for victim healing and offender accountability, and (in some cases) reduce offender recidivism. However, the exact number of restorative justice-oriented programs in existence remains unknown, and there is a lack of systematic data on the direct impact of these programs on recidivism and program costs/benefits when high-risk violent and sex offenders and their victims are involved.

Other questions that have been raised regarding the application of restorative justice include: What if one party refuses to participate? Is victim participation truly voluntary? In cross-cultural situations (where victims, offenders, and citizens come from different cultural backgrounds), how will different conceptions of restoration be resolved? What happens in situations where no “community” can be defined? Does implementation of the restorative justice model blur or dissolve the distinction between civil and criminal law? These and other questions and challenges remain at the forefront of discourse and exploration of the restorative justice model.
RACE AND GENDER ISSUES

Fundamental to restorative justice is the notion that the restorative process involves cultural plurality and community or citizen ownership of the justice process. This means that any program, policy, or practice that is considered restorative necessarily involves allowing the voices and concerns of traditionally powerless stakeholders to be heard, acknowledged, and addressed.

Some argue that restorative justice offers a forum through which the needs of women and minority racial/ethnic groups and indigenous populations can be better addressed. However, critics contend that restorative justice programs do no better and in some situations may actually do worse than the traditional criminal justice system in terms of dealing with imbalances of power.

For example, there is disagreement about whether restorative justice is an appropriate response to domestic violence and sexual assault. Restorative justice proponents suggest that the restorative approach gives female victims of domestic and sexual assault a safe forum through which to express their needs, rights, and interests. Others argue that these sorts of crimes are so extreme that they should be handled in the formal criminal justice system through a punitive response. Feminists argue that if domestic violence and sexual assault are dealt with restoratively, these matters may return to the private sphere to be dealt with behind closed doors rather than a serious, public social problem deserving of a formal and severe criminal justice response.

Another concern is that restorative justice may worsen social injustice. Braithwaite (2002) suggests that even when restorative justice is maximally culturally plural, tensions exist between restorative justice and social justice. For example if facilitators are trained to assure plurality in the restorative justice process, would indigenous Elders who have not been trained or certified be excluded from presiding over indigenous justice processes? Furthermore, cultural plurality and equalizing power imbalances is a complex task in situations where the offender is from one culture/race/gender and the victim is from another. In such situations the victim-offender dynamic is supplanted by the male–female, Indigenous–white, African American (or Hispanic, Asian, Native American, etc.–white), minority–majority culture. For example, in a restorative justice program where offenders are disproportionately racial/ethnic minorities from disadvantaged socioeconomic backgrounds and victims and citizens are disproportionately white and socioeconomically advantaged, who has the weaker voice? How can the needs of all parties, in particular the victim, be addressed while ensuring plurality and promoting social justice?

An additional concern is that restorative justice has been misrepresented as a peacemaking or “feminine” justice. Daly (2002, p. 66) argues that using gender dichotomies (or any dichotomies) to describe principles and practices of justice will always fail, because justice must deal with “the messy world of people’s lives.” If women are viewed as the peacemakers or caretakers, and responses to crime become increasingly restorative, then the burden of justice will fall on women who tend to do more of the restoring than men (Braithwaite, 2002). Care or peacemaking approaches may not be appropriate for some offenders and may further victimize some victims. Relegating femaleness to peacemaking, caring, and restoration and maleness to conflict, punishment, and retribution is a response to crime and injustice that makes crime and punishment the business of men and victimization and restoration the business of women—a false dichotomy that reinforces the harm and power imbalance restorative justice seeks to repair.

CONCLUSION

Restorative justice offers an alternative to the adversarial model of justice, a new framework for envisioning correctional interventions, and a range of options to enhance public safety and offender change. It is unclear whether the restorative justice paradigm will succeed in supplanting the retributive “Get tough” approach to crime and corrections. However, the grassroots nature of the restorative model and the convergence of the restorative and community justice frameworks have resulted in
widespread implementation of a range of programs and practices founded upon the principles of restorative justice. Given that restorative justice-oriented programs and practices have been developed and exist independently of governmental agencies through the efforts of religious and nonprofit community organizations and individuals within academic, social service, and/or other noncriminal justice organizations, it is likely that these efforts will continue to impact corrections and to provide alternative correctional options in the United States and around the world. The accumulation of empirical findings on the range of restorative programs and practices in corrections, the evolution of restorative justice into community justice, and continued discourse and action exploring the role of community in crime, justice, and corrections will likely continue to play an important role in future correctional policy and practice.

—Jacqueline B. Helfgott

See also Australia; Crime, Shame, and Reintegration; Incapacitation Theory; Just-Deserts Theory; Juvenile Offenders: Race, Class, and Gender; Native American Prisoners; Native American Spirituality; New Zealand; Prisoner Reentry; Race, Class, and Gender of Prisoners; Recidivism; Rehabilitation Theory

Further Readings


RETRIBUTION THEORY

See Just Deserts Theory

RIKERS ISLAND JAIL

HISTORY

The City of New York purchased Rikers Island in 1884 for $180,000. At that time, the island measured 87 acres. Before it became the penal colony it is today, Rikers, along with Hart Island, was used as a base for the U.S. Colored Troops, the African American soldiers who fought during the Civil War. In the 1930s, Rikers Island became the headquarters for the New York City Department of Corrections, replacing the department’s antiquated facilities at Blackwell’s Island (now Roosevelt Island).

Rikers opened as a jail in 1933 with only two facilities: the Rikers Island Penitentiary and the Rikers Island Hospital. During the 1930s and into the 1940s, the inmates housed at Rikers, many of whom were there because of problems with narcotics, worked as farm laborers on the island. The theory at Rikers was that hard work and fresh air would help prisoners reform. Consequently, inmates worked at jobs such as growing farm produce for other institutions, raising the numerous...