

Critique of Restorative Justice

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LONG BEFORE U.S. ATTORNEY GENERAL JANET RENO DIRECTED THE OFFICE OF Criminal Justice Programs in 1996 to look into innovative, community-based programs, restorative justice principles were being explored, discussed, and practiced across Canada, South Africa, Minnesota, Colorado, and not surprisingly, among American Indians. Janet Reno outlined her vision of community justice, a concept that builds on the problem-solving approach of community policing that creates strong linkages between the police, courts, prosecutors, and correction systems and the community they serve (U.S. Department Justice, 2002).

In response to the attorney general's call for a community-oriented justice, several federal agencies — the Office of Justice Programs, the National Institute of Justice, Office for Victims of Crime, Office of Juvenile Justice and Delinquency Prevention, the Bureau of Justice Assistance, and the National Institute of Corrections — hosted a national conversation on restorative justice (*Ibid.*). “Over 100 practitioners, victims, and researchers from...the U.S. and Canada met to discuss the concept, promise, and limits of the emerging philosophy of restorative justice” (*Ibid.*).

Restorative justice has become a business beyond U.S. federal agencies. A college located in rural California advertised the study of restorative justice as a new and growing occupational future. Established departments of criminology now offer a specialized curriculum called “Balanced and Restorative Justice.” The Center for Restorative Justice and Peacemaking at the University of Minnesota is lodged in the School of Social Work. There are several national organizations, among them The Center for Justice and Reconciliation at Prison Fellowship. Another is the Victim Offender Mediation Association (VOMA), and there are many private consulting firms.

At the international level, the United Nations has been a prime mover in endorsing the principles of restorative justice. In 1997, the Commission on Crime Prevention and Criminal Justice adopted a provisional agenda for the Tenth U.N. Congress, held in the year 2000. Significantly, the fifth paragraph of the document points to a danger of restorative justice: the neglect of “the etiological factors of crime — poverty, racism, cultural/social values, [and] individualism.” This has

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been recognized in South Africa, where proponents of restorative justice seek to go beyond punishment to address the root causes of crime and help to restore social relations gone askew. Bishop Desmond Tutu's Truth and Reconciliation Commission explicitly drew upon restorative justice principles when it linked issues of healing or restorative truth, reconciliation, and amnesty. The Commission insisted on the acknowledgment and affirmation that a person's pain is real and worthy of attention, and is central to the restoration of the dignity of victims.

The theme of reconciliation that characterized the political transition in South Africa is linked to the African philosophy of humanity and community, *ubuntu* (Roach, 2000; Skelton, 2002). The acceptance of non-retributive forms of justice, familiar from African traditional justice, community courts, and the Truth and Reconciliation Commission, dovetail with the international trend toward restorative justice. The Center for the Study of Violence and Reconciliation is behind many initiatives designed to bridge the gap between victim and perpetrator in a country experiencing very high crime rates and with a legacy of drastic polarizations in wealth and educational attainment. Although Zehr (1990) has noted that South Africa's attempt to apply restorative justice principles has been incomplete, the movement cannot be said to be marginal. The Center's director, Graham Simpson, was one of the drafters of the National Crime Prevention Strategy, adopted by the South African cabinet in May 1996. Most initiatives focus on pretrial mediation, in which both parties are asked to try to talk through their conflict as an alternative to prosecution, while others take the form of educational diversion programs for youth at risk (Joffe-Walt, 2004).

Rather than review the voluminous literature on restorative justice in the United States, we believe it would be fruitful to comprehend the Maori restorative tradition in New Zealand, where the new social movement for restorative justice has gone the furthest (Braithwaite, 2000). This article will explore the community's responsibilities in doing justice and the prospect of applying restorative justice principles to poor, victimized communities in Alameda County, California.

The Past: The Maori Restorative Tradition

The Maori restorative tradition in New Zealand is described in books by Jim Consedine (1995) and Jim Consedine and Helen Bowen (1999). Father Jim Consedine is a former prison chaplain and in 1995 was a parish priest and coordinator of the National Movement for Habilitation Centers and Restorative Justice. In the Maori restorative tradition, "the purpose of justice is a healing for all: it is not a battleground. The process is primarily about hearing and helping the victim, healing the *whanau* (family), and helping and healing the perpetrator" (Consedine, 1995: 82).

Marae justice is set up to meet victims' needs [emphasis added]. It is not about squashing the offender into the dirt. It is about recognizing who

got hurt — to hell with people saying society is the victim: it was *me* (*the victim*), not society, who got hurt (*Ibid.*).

The *whanau* (families) of both sides in a complaint are invited to a *hui* (a community meeting). The accused needs to plead guilty and not hide what had been done. It is up to the accused's *whanau* (family) to get to the root of the matter before the hearing begins. In a sense, the whole *whanau* (family of the offender) is on trial. At the *hui* (meeting), the elders take the offender to task, with the *kuia* (family of the victim) being particularly prominent in shaming the offender and the whole family. Often they are all reduced to tears.

Then, consultation between the parties would take place as to a suitable way of dealing with the matters, so as to heal any hurts and restore things to “normal” again. Things stolen would have to be recovered or compensation paid. Damage would have to be repaired. The penalty usually involved some compulsory work... (*Ibid.*: 82).

Consedine describes a case entailing violence. In the rape of a 15-year-old girl, the same procedure is employed. The only difference is the penalty. In the rape case, whenever there was a wedding in the community, the family of the convicted boy must supply meat and vegetables. In addition, they must paint the meetinghouse and repair the building as needed. After some time, because the meetinghouse is a community building, the victim and her family helped to prepare the meals for the offender's family while they were working. The two sides came together in a gesture of reconciliation (*Ibid.*: 83).

Consedine's stories are memories from a buried past. Until World War II, the Maori lived in rural isolation. By the mid-1970s, the situation had reversed, with an estimated 75% of the Maori now living in urban centers. The generation of young, urbanized, radicalized, university-educated Maori raised concerns about “the sustainability of Maori culture and the implications of rural depopulation for the retention of land and other resources” (Wereta, 2002). They joined forces with the network of indigenous people, members of trade unions, and the generally disaffected to address grievances arising from the continuous violation of the 1840 Treaty of Waitangi. For the Maori, the treaty is a sacred document. Under the treaty, the Maori agreed to British settlement and to the establishment of their own system of governance over their own people. The British in turn affirmed and guaranteed that the Maori could exercise their own system of governance (absolute authority) and maintain undisturbed possession of all estates (lands, forests, fisheries), as well as other *taonga* (things treasured), including customs, beliefs, and values (Love, 2002). The treaty was nullified by successive New Zealand governments for over 100 years.

In response to the civil unrest of the mid-1970s, the New Zealand government established “Waitangi Day” as a national holiday. The Treaty of Waitangi is now

acknowledged as the “founding document” of the New Zealand nation. In addition, the Treaty of Waitangi has been rephrased into treaty principles:

- Partnership: referring to a partnership between Maori and the crown;
- Participation: referring to the right of Maori to participate in processes and structures affecting them; and
- Protection: referring to the active protection of Maori values, culture, rights and aspirations (Love, 2002).

Kathleen Daly (2000: 10), the Australian criminologist, corrects the literature on the origin of *family group conferencing*:

Maori people’s struggle during the 1980s for a greater voice in care and protection cases, via family decision-making, led to the development of family conferencing as a method of decision-making. The idea was that better decisions would result with increasing participation of Maori “family groups” and with decreasing involvement of state social workers or other professionals.

The concept of family conferencing was later adopted by the criminal justice system as an afterthought.

The Present: Children, Young Persons, and Their Families Act

After a century and one-half of British rule and law, the new youth act came into existence in 1998. “It was born out of frustration of many in the juvenile justice field” — especially judges — who found that the underpinning of the European justice system left two major negative effects: “The first was an orientation towards more offending, the second was the encouragement towards dependency on welfare as a way of life” (Consedine, 1995: 103).

Judge Fred McElrea’s article on responsibility and accountability highlights his sentiments and the principles underlying the new Youth Act. According to McElrea (in Consedine and Bowen, 1999: 56), British-based:

criminal justice has been divorced from the community far too long. Justice has come to be seen as a contest between the state and the defendant. Largely ignored is the forgotten party, the victim, and the community to which they and the offender both belong. Justice should be something we claim for ourselves and strive to enhance, but at present the ordinary person feels little sense of ownership of justice. It is seen as a legalistic system of rules governing this *State v. Defendant* contest. As a result, there is little incentive to take responsibility for the offending itself or for putting right wrong. By contrast, restorative justice is essentially a community-based model that encourages the acceptance of responsibility by all concerned and draws on the strengths of the community to restore peace.

Judge McElrea states the principles in restorative justice as a framework for the criminal law:

1. A recognition of the New Zealand Youth Court as a new model of justice;
2. An analysis of the new youth justice as a largely restorative system of justice;
3. The development of a community group concept applicable to adults; and
4. A consideration of right relationships as lying at the center of justice.

The elements of the Youth Court model are:

1. The transfer of power from the state, principally the court's power, to the community;
2. The family group conference (FGC) as a mechanism for producing a negotiated response;
3. The involvement of victims as key participants, making possible a healing process for both offender and victim.

The Youth Court model has been recognized in a High Court decision as requiring concentration upon a restorative justice system rather than a retributive or deterrent system. The object of the new provisions is to enable victims and the community, as well as young persons, to participate in a process that would help them and heal the damage caused by their offenses. An essential part of this process is a negotiated community response at a family conference. This system operates in a vastly different way to that which the courts are required to use in dealing with adult offenders (Consedine and Bowen, 1999: 56–57). The Youth Court model has been adopted in demonstration projects in the United States, Canada, and England. (See Zellerer and Cannon, 2002.)

A Case History from New Zealand

Consedine and Bowen (1999: Section Two) provide summaries of the proceedings of community group conferences under the new Youth Court Act.

Case History: Frank, Sexual Violation

Charges: Frank has been charged with sexual violation of his granddaughter. The underage victim was not present at the CGC (Community Group Conference).

Present: Megan, Marie's mother; Jason, Marie's father; Frank, defendant and Marie's grandfather; Tony, Frank's oldest son; Paul, Frank's youngest son; Detective Sergeant Graham, police officer; Pauline, facilitator.

Conference:

Megan: "Marie is not scared or terrorized. She is confused. She is loved and

loves her grandfather (Frank). Frank was not abusive in a violent way. Before Marie told me what happened, she was very angry, violent, screaming. She has been reassured that nothing like this will ever happen again. She has no resentment toward her grandfather....”

Tony: “When I first found out what happened, I was disappointed and disgusted. Dad (Frank) was a good male role model. He has broken that. This has been really hard. It is going to take a long time to repair. My marriage has been strained. I don’t know what we are going to do with Granddad. Our family is so close because of Dad. He has always done everything for us that we needed....”

Megan: Jason and I know how others feel. Our kids have been cheated of a grandfather. But we believe that with the support we can give him, he can have a normal relationship with his grandchildren. I know how remorseful he is....

Jason: “When Megan first told me about it, I was pretty devastated. About two days later, I rang my brother. I needed family support.... My wife had really bad feelings towards Dad. I still love my father....”

Frank: “I am just shattered, a broken man. When Detective Smith told me about the complaint, the guilt went right to the bottom of my stomach. I denied it, but I realized this was not the truth. On Friday I went to work. I decided that if I continued to deny it, it would split my family. My lies would split up my family. I decided that I would confess to Megan and Jason.

I love my wife, my sons, my daughters. I am a lucky man to have them around me. I have been proud of them all. Now I see my life shattered after all these years. I am so sorry it happened to that little girl. What a bastard I have been. I think about it all the time.... I am going to counseling. I am so sorry it happened. I am so sorry to everyone. It was such a cruel thing to do....”

Detective Sergeant: “I am in charge of the Sexual Abuse Team. In my experience, most offenders go the jail for varying periods.... I am very impressed with Marie’s parents, Megan and Jason, and their attitude. Frank has been very open and honest. This is very refreshing. He is being a real man to confront himself with what he has done....”

Tony: “I don’t think that prison is the best answer. Before I knew of the situation, I would have said ‘shoot the bugger.’ Dad has been suicidal because of his actions and prison would be no place for him. Dad is being punished every day and every minute.... His suffering punishes us. He sees his family is being dragged into his punishment. This punishes him more. I don’t think it is right that we should be punished further by us going to see dad in prison....”

Jason: “If Dad were in jail, it would not help in the healing process for wee Marie. If he is not in jail, he can show her what a real grandfather can do. It would not be right to victimize Marie more by putting Dad in jail. I am confident he will not re-offend. He is going through punishment already, everyday that he looks at his wife.”

Recommendation to the Court: “The group recommended periodic detention

or a suspended prison sentence; and two years supervision with conditions that Frank undergo such counseling or therapy as the probation officer directs. Periodic detention is necessary as Frank cannot do community service, a preferred option, together with supervision.”

Court Decision: “The judge accepted the recommendations of the CGC and imposed a suspended sentence with supervision and certain conditions. He said that normally 15 months imprisonment would have followed such offending” (*Ibid.*: 99).

Conferencing

It is noteworthy that the above case and all other conferences under the new Youth Act described in Consedine and Bowen (1999) are no longer in a community setting. The meeting is not a *hui* (a community gathering), but instead a *conference* or *conferencing*. The participants are the victim(s), victim’s family, the offender, offender’s family, a police officer, a defense lawyer in some cases, and a facilitator — an official of the criminal justice agency.

Although the face-to-face meeting of the victim and the offender at a conference is a novel feature, *two basic principles in the Maori system of justice are missing: the kuia (an older wise woman) and shaming on the part of the victim’s family of the offender and the offender’s family at a hui (a communal gathering)*. However, under the Youth Act the conference can be a public rebuke. As the facilitator, police, the victim, and the victim’s family participate in conferencing, the internalized shame of the offender may rise to the surface as the circumstances of the crime and punishment are being discussed.

Consedine reminds his readers that conferencing was put forward as a restorative justice *pilot* (Consedine and Bowen, 1999: 23) and emphasizes the importance of thorough training (cultural sensitivity and input) for the facilitators and an evaluation of the model:

There must be questions about the process and assessment of the risks. What is restorative justice? Which restorative justice model is appropriate? Do the current models produce a restorative justice outcome? Are victims doing better under the restorative justice system? What is the likelihood of victims being re-victimized? Can facilitators be neutral in a criminal justice environment? Who will assess community volunteers as participants? Can offenders buy their way out? What about parity in sentencing? Will it make a difference if some victims are more forgiving than others (*Ibid.*: 23)?

Community

Howard Zehr (2002: 76), an American, has been called the grandfather of restorative justice. His writings reflect his knowledge and appreciation of the

traditional Maori system of justice. One of his “Fundamental Principles of Restorative Justice” is that “victims and the community have been harmed and are in need of restoration.” First, the primary victims are those most directly affected by the offense, but others, such as family members of the victims and offenders, witnesses, and members of the affected community, are also victims. Second, restoration is a continuum of responses to the range of needs and harms experienced by victims, offenders, and the community.

According to Zehr, the community, in turn, has obligations to the victim, to offenders, and for the general welfare of its membership:

1. The community has a responsibility to support and help victims of crime to meet their needs.
2. The community *bears a responsibility for the welfare of its members and the social conditions and relationships that promote both crime and community peace* (emphasis added).
3. *The community has responsibilities to support efforts to integrate offenders into the community, to be actively involved in the definitions of offender obligations, and to ensure opportunities for offenders to make amends* (emphasis added).

Zehr repeatedly stresses that the restorative justice process is a community function: community members are actively involved in doing justice. The justice process draws from community resources, and, in turn, contributes to the building and strengthening of community. It attempts to promote changes in the community to prevent similar harms from happening to others and to foster early intervention to address the needs of victims and the accountability of offenders.

The concept of *community* has been especially troublesome in the United States. *Community* policing is sometimes called neighborhood policing. It is not clear whether a community and a neighborhood are interchangeable terms, or whether they mean different things. In a recent evaluation study of a project based upon Todd Clear’s theory of restorative community justice (Karp and Clear, 2002: 3–33), the researcher who conducted the evaluation stressed the importance of *defining community*. She asked: “What does ‘community’ mean?” How do we get people who have been historically segregated, e.g., people in black ghettos, barrios, and reservations, to participate in and trust a process (the research project) dominated by occidentals (Lane et al., 2002)?

Perhaps the idea of a community exists only in the historical past. John Embree’s anthropological study of a Japanese village, entitled *Suye Mura* (1939), consisted of two neighboring *shu-raku* (hamlets). These farming communities grow rice as the main source of income, buckwheat during the winter months, and the wives raise silk worms as a third source of income. The members of the *shu-raku* interact with one another in various ways: collectively repairing roads and damage from the overflow of the river, helping to rebuild houses damaged

in the village, visiting one another's homes, where they consumed voluminous amounts of sake, and celebrating the major holidays as a community. They spoke a common dialect, Kumamoto-ben, and those who did not speak the dialect were considered outsiders.

Many would agree that Suye Mura is a community. The First Nations of Canada may offer alternative examples. The Center for Restorative Justice and Peacemaking's "Restorative Justice Annotated Bibliography" (in Umbreit et al., 2003), which covers 61 projects, indicates that two projects in Manitoba, Canada, with the indigenous people of Hollow Water First Nation, entailed community participation. The reviewer notes: "The relative isolation and homogeneity of the Hollow Water First Nation community enhanced and impaired the work of circles" (*Ibid.*). Isolation, homogeneity, and geographic boundaries are properties that characterize the communities of reservation Indians, some religious groups in the United States, and the barrios and black ghettos in urban America.

Creating a Community

A passionate campaigner for restorative justice is Tom Cavanaugh, a newspaper reporter who is also associated with Colorado State University. Cavanaugh's understanding of restorative justice is based upon his reading of Howard Zehr. Zehr's conception of restorative justice calls on the community "to bear responsibility for the welfare of its members and the social conditions and relationships which promote both crime and community peace" (Zehr, 2002: 66).

Cavanaugh (1999) *created* a community in no small measure in the highly publicized "paintball case," which occurred in April 1969. A young man shot a paintball gun at a group of girls, striking one of them in the eye. This resulted in permanent blindness. The offender appeared in juvenile court and pleaded guilty. In the presentencing phase of a criminal trial, the probation officer typically conducts an investigation of the offense and the circumstances surrounding it, obtains the victim's statement, and makes a recommendation to the court. In the paintball case, the court approved a presentencing conference. Fifteen people — an astonishing number — attended the conference and an equally astonishing four-hour conference resulted in an opportunity for the offender, his family, the victim and her family, as well as members of the community to share their stories about the incident,

The offender and his family assumed financial responsibility for the expenses incurred by the victim and her family. The offender made his apology and offered to donate his eye to replace the victim's eye, which was blinded by the incident. A final agreement was prepared and signed. The defendant was sentenced to two years of probation and 45 days in jail. The jail term was suspended, except for six days in jail on weekends.

The paintball case is an exemplary tale and the people following the case undoubtedly wanted an ending that would heal the harm. The probation depart-

ment initially had two enthusiastic supporters of restorative justice. The highly publicized paintball case generated interest in and support for restorative justice. The leaders in the probation department prepared a vision statement:

Ultimate goal of the project is to educate the community on restorative justice principles. To understand and learn ways in which crime hurts relationships among people who live in the community. The community's response to crime needs to emphasize and reestablish community members' mutual responsibility to each other.

A commitment for the vision statement was obtained initially in the probation department. A restorative justice task force was formed. People representing organizations already involved in restorative justice were invited to join. Then people outside the system were invited to become members. Soon after, the "community" had 50 people representing organizations and individuals supportive of the vision. Tom Cavanaugh published these events under the instructive title, "Creating a Restorative Justice Community."

The labor force in the Fort Collins Metropolitan Area totals 99,000, of which 91,500 are occidentals, 5,400 Hispanics, 500 African Americans, 250 American Indians, and 1,300 Asians. The unemployment rate is five percent for each group, except for Hispanics at eight percent (Colorado Department of Labor and Employment). Given the profile of the population, the restorative justice "community" created by the probation department can be a functional entity.

Shaming As Reintegration

As noted above, the conference model under the new Youth Act deleted two principles from the Maori system of justice: the *kuia* (an older wise woman) and the shaming by the victim's family of the offender and the offender's family at a community gathering. In Umbreit et al.'s (2003) annotated listings of studies on restorative justice, there were two integrative shaming experiments conducted by the Australian National University. These experiments were conducted under artificial settings; that is, shaming as a method of socialization is a long-term cultural process, and it is doubtful whether it can be created in a laboratory to demonstrate one way or the other the Maori system of justice.

Another study of shaming is the "Wagga model," in which a police officer coordinates a "conference" at the local police station. The focus is not on the offender, but on the harm caused by a particular offense. The "community" is a panel of police sergeants. Shaming of the defendant is based on John Braithwaite's theory of integrative shaming (Braithwaite, 1989). Following this, the charges are dropped and the offender is released (Moore, 1993).

John Braithwaite's book on integrative shaming is based upon his readings of the literature on reintegrative shaming. It draws from sociology, anthropology, and criminology, including several studies of Japan due to its low crime rate,

to generate a propositional inventory on shame and reintegration. There are 14 propositions in all, but for the purposes of this article, there are four essential principles in the Maori system of restorative justice.

1. "Shame not only specifically deters the shamed offender, it also generally deters many others who wish to avoid shame and who participate in or become aware of the incident of shaming."

2. "Both the specific and general deterrent effects of shame will be greater for persons who remain strongly attached in relationships of interdependency and affection...."

3. "...a combination of shame and repentance by the offender is a more powerful affirmation of the criminal law than one-sided moralizing. A shaming ceremony followed later by a forgiveness and repentance ceremony more potently builds commitment to the law than a shaming ceremony alone. Nothing has greater symbolic force in community-wide conscience building than repentance."

4. "Because shaming is a participatory form of social control, compared with formal sanctioning which is more professionalized than participatory, shaming builds consciences through citizens being instruments as well as targets of social control" (Braithwaite, 1989: 80–83).

Braithwaite's propositional inventory on shaming is the operational principle in the "Wagga model" of conferencing.

The Etiology of Crime in New Zealand and California

The field of criminology distinguishes theories on the control of crime and etiology (causes) of crime. In this tradition, Braithwaite's propositional inventory on shame lays the foundation for a theory of social control.

Among criminologists who write on the causes of crime, some focus on social-psychological factors such as childrearing practices. Others look at macro factors, such as the long-term effects of unemployment that result in an increase in homicides, suicides, cardio-vascular diseases, and alcoholism (Ungvary et al., 1999). Further studies have focused on misconduct by corporate and government officials, while others have broadened the definition of crime to include violations of human rights and civil rights.

Based on population, the Maori have the highest recorded rates of crime when compared to other ethnic groups in New Zealand. Maori make up 53% of the prison population. The following predictors of crime and social pathologies reveal a grim picture of the Maori people: they have high unemployment rates, lower levels of education, poor health status, higher poverty levels, high suicide rates, and shorter life expectancy. "Maori receive lower median incomes than non-Maori in similar occupations, and also have lower median incomes than non-Maori with similar levels of education" (Love, 2002: 8).

Two Australian criminologists (Rob White, 1994, and Kenneth Polk, 1994) raise concerns with the "shame and reintegration" model and its practitioners

for failing to consider the basic structures of Australian/New Zealand societies. Braithwaite does not discuss the issue of power, who holds it, how it is exercised, or how it is channeled into certain dominant structures, especially in class/race/gender relations of domination and subordination (White, 1994: 183). Society is viewed in terms of “individuals,” rather than as social formations, social forces, and social structures. As such, the shaming/integration theory is ahistorical and fails to capture the deterioration of the condition of the working class, and their progressive marginalization in production, consumption, and community life.

Oakland, California

The lead author of this article lives in Oakland, California, a city with a population of 400,000 people. It has an African American population of 142,460 (37.5%). A recent survey found that 50% of African Americans are unemployed in New York City. The “official” unemployment rate of African Americans is 20%. If we include the underemployed and discouraged job seekers, over 45% of black youth are unemployed. The unemployment rate among African Americans in Oakland is probably similar or higher given that Oakland does not have an industrial or commercial base. Of the homeless shelter users in Oakland, 52% are African Americans, mostly women with children (Speigman and Norris, 2004), and others are “invisible.” In calendar year 2003, there were 115 homicides in Oakland. Most victims were African Americans. McDowell (1986) reviewed homicide data over a 52-year period. He reports that as poverty increased, so did homicides. Poverty and victimization are also related. The Bureau of Justice Statistics (1992) shows that persons with annual family incomes of less than \$7,500 have the highest violent crime victimization rate, and the rate decreases as income increases.

Three Oakland “black” high schools — Castlemount, McClymonds, and Fremont — have consistently ranked at the bottom (one out of a possible 10) on the state Academic Performance Index since testing began. Thirty percent of Oakland freshmen make it to graduation, compared with 68% nationwide. At McClymonds, 288 freshmen entered in 1998, and only 72 students graduated four years later.

Lack of education means limited knowledge of health matters and of the causes and prevention of disease. In a study of beliefs about cardiovascular disease among African Americans and occidentals, researchers found that the most important variable in a person’s ability to state the risk factors for cardiovascular disease was educational level (Ungvary, 1999).

Sociological Imagination

C. Wright Mills (1959) draws our attention to the distinction between “the personal troubles of milieu” and “the public issues of social structure.” Consider unemployment in this respect. When, in a city of 100,000 inhabitants, five people

are out of work, that would be their personal troubles. For relief, one or more may benefit from employment counseling: acquiring additional skills, entering a new line of work, or relocating where work is available. In a nation in which 50% of African Americans are unemployed and underemployed:

that is an issue, and we may not hope to find its solution within the range of opportunities open to any one individual. *The very structure of opportunities has collapsed. Both the correct statement of the problem and the range of possible solutions require us to consider the economic and political institutions* (Mills, 1959: 9; emphasis added).

There are many cities like Oakland in the United States. What has happened to urban America in the past 50 years? Below are the key factors that influenced the reshaping of urban America.

1. The dominance of the automobile was facilitated by the 1956 Interstate Highway Act. This act spawned 43,000 miles of federally financed superhighways. The highways tied together a network of super-roads on a continent that was already served by a railway system. At the same time, the interstates “ripped up many city neighborhoods and opened up vast tracts of farmland for sprawling suburban development” (Rusk, 2000).

2. Ripping up city neighborhoods — officially known as urban renewal — has also been called “ethnic cleansing” (E. Michael Jones, 2004). Blacks settled in West Oakland during the World War II period, when several thousand were recruited from the South to work in the shipyards and other war-related industries. The apparent intent of urban renewal in West Oakland was to clear the way for the construction of four superhighways, otherwise known as freeways, and of a rapid transit system to convey occidental workers who had fled to the suburbs. Nationally, the urban renewal of the 1950s and 1960s rebuilt downtowns by demolishing the “slums,” along with solid, working-class neighborhoods. Of the many publications on federal urban renewal policy, the most disturbing is E. Michael Jones’ (2004) *The Slaughter of Cities*. The idea of urban renewal or “ethnic cleansing” was part of a White American Anglo-Saxon Protestant (or WASP) agenda. As members of the upper class with easy access to the centers of economic and political power, they were supported by academics from elite private universities. The initial targets for destruction were the communities of ethnic Polish Catholics in Philadelphia and the Italian Catholics in Boston (Gans, 1962). In Oakland, demolition began in 1970. In May 1967, a contingent from the recently formed Black Panther Party for Self Defense appeared on the granite steps of the state capitol in Sacramento, armed but peaceful, and read a brief statement before the press, rifles in full display. Images of the event were on the evening news across the country and made headlines around the world (Self, 2003). Urban renewal in Oakland moved full speed ahead in redistributing (dispersing) the black population into East Oakland.

3. Deindustrialization was also a pivotal factor. Oakland's industry spread along the flatlands within easy distance of West Oakland. Chevrolet, General Motors, Willys-Overland (later renamed Willys Motor Company), Fisher Body, Durant Motor, Faegel Motors, and Star Motor made Oakland the center of automobile production in Northern California. It was home as well to numerous machine shops, canneries, cotton-processing plants, tire and rubber companies, steel-casting plants, and light assembly shops. Oakland also produced wood products, wire and cable, phonographs, office machines, and farm implements. Small businesses followed these industries with restaurants, shops, gas stations, and a host of other services in neighborhoods and commercial strips throughout Oakland (Self, 2003).

Capital and jobs were on the move in the 1950s and 1960s. Some capital moved to the Deep South, where labor was cheaper and unorganized. General Motors, Dow Chemical, Shell Oil, Borden Chemical, and Trailmobile led the exodus to new suburban locations, taking with them thousands of jobs. The workers most vulnerable to discrimination — African Americans — remained in West Oakland and the new black ghetto in East Oakland. For them, distance was a barrier.

4. Due to Federal Housing Authority mortgage insurance, long-term, low-interest loans converted the U.S. into a nation of homeowners. "*Federal policy red-lined African Americans out of the mortgage market and excluded them from the postwar home equity boom, the greatest generator of family wealth in history*" (*Ibid.*).

5. NAFTA, the North American Free Trade Act, continued the trend. The hardware for the new computer on which this article was written was manufactured in China. The parts were assembled in a sweatshop in Mexico, in one of the *maquiladoras*. The computer company is headquartered across the Mexico border with a win-win operation: low-cost labor with neither health care coverage nor retirement benefits, and the products are shipped across the border duty free. Meanwhile, unemployment and related social pathologies are mushrooming in the inner cities.

In the course of this research, we looked for restorative justice projects that were specifically designed to serve or strengthen an African American community. Of the 100 projects annotated by the University of Minnesota's Center for Restorative Justice, not one focused on an African American community (see Umbreit et al., 2003; 2001; 2002).

Conclusion

An evaluation of the several models of restorative justice projects in the United States is a difficult undertaking, with numerous obstacles beyond the sheer number of projects. For example, among the conference models adopted by juvenile probation departments across the U.S., some projects attempted to measure their efforts by focusing on victims' feelings of satisfaction concerning

the conferencing experience, while others compared recidivism rates of those who participated in a conference compared to those who did not. The research design leaves much to be desired, since the offenders and probation officers are seldom randomly assigned to the experimental and control groups. Members of the present U.S. Supreme Court looking at the same “facts” predictably split five to four, indicating that personal beliefs, values, and norms more often than not determine judicial decisions. Probation officers are similarly governed by behavioral standards. Thus, research findings in criminal justice are suggestive at best. Moreover, restorative justice and law enforcement personnel often interpenetrate. In California, many counties permit probation officers to carry weapons (Handis, 2004), collaborate with the police in exchanging information, and ride along with the police (Mara-Drita and Arifuku, 2001). The latter was a multi-million-dollar project in Oakland that was based on the principles of Boston’s Operation Night Light and Community Probation, a variant of restorative justice. Success and failure rates among black juveniles from West and East Oakland showed no difference between the experimental and control groups.

Problems with defining community abound. Academic-based researchers have generally accepted community to mean people living in a geographic space nearby a demonstration project; probation officers are even viewed as the representative of the community. Taking another approach, Cavanaugh (1999), having read Zehr’s writings, created a community of committed people interested in restorative justice. Yet, what does “community” mean in a place like West Oakland, which is populated with Ellisonian invisibles? When over half of those housed in homeless shelters are African American women and children, and others not in shelters are waiting in food kitchen lines? What does community mean for those begging in front of restaurants and grocery stores, for the people searching in garbage cans, and for those working day and night filling shopping carts with recyclables? When night falls, we see the homeless sleeping in the recesses of doorways of buildings. All of this is invisible, in the sense that we choose not to acknowledge their existence and thereby their humanity.

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