

*CANADIANS ARE SPENDING 9.5 BILLION DOLLARS A YEAR ON A JUSTICE SYSTEM WHICH DOES NOT MEET THE NEEDS OF VICTIMS, OFFENDERS, THEIR FAMILIES, OR THE WIDER COMMUNITY.*

*THIS BOOKLET IS ABOUT GROWING TOWARD  
A BETTER WAY  
A CHEAPER WAY  
AND A MORE HEALING WAY*

### **ABOUT THE AUTHOR**

RUTH MORRIS is a Quaker with a doctorate in sociology and social work. In 25 years as a social activist, university teacher, community organizer, writer and speaker, she has played an active role in building new systems of healing justice. Founder of the Toronto Bail Program, 2 halfway houses, and a community mediation service, she has worked actively with street people also, and received a Provincial Award in 1987 for her work for the homeless in Ontario, a Governor-General's Award, and the YMCA Peace Medallion. Her pioneering includes founding the International Conferences on Penal Abolition, and helping Canadian Quakers to be the first religious group in the world, in 1981, to arrive at consensus for prison abolition. She has done consulting work with the UN in Latin America, and spoken widely on transformative justice in Central America, New Zealand, the USA and Canada. She has done over 200 media and public appearances in recent years on healing justice topics.

Her books include:

- Crumbling Walls, Why Prisons Fail • Journey to Joy
- Penal Abolition, The Practical Choice
- Listen Ontario, Faith Communities Speak Out.

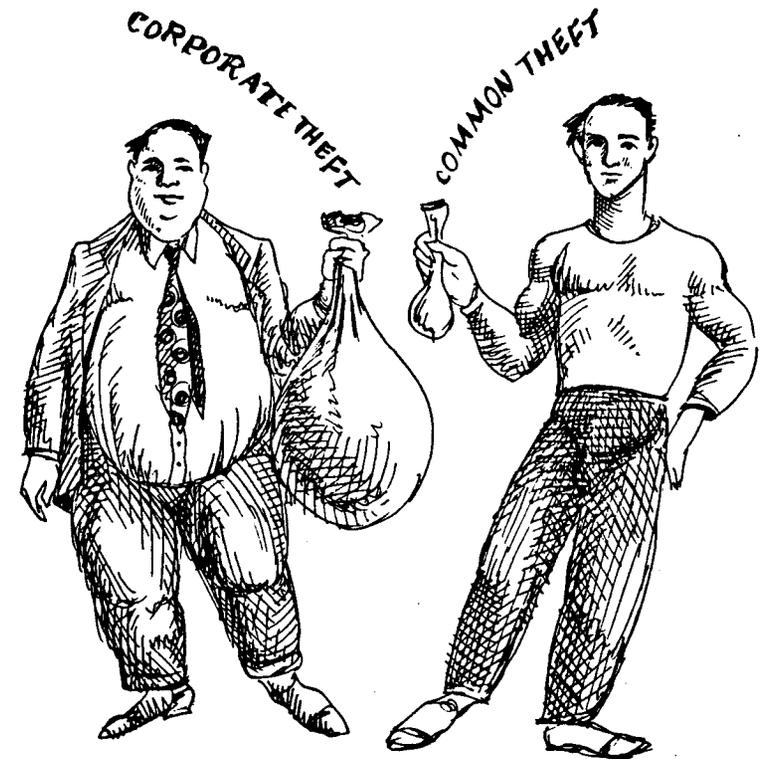
Other pamphlets in this series include:

- A Practical Path To Transformative Justice • Creative Alternatives To Prison
- But What About The Dangerous Few? • We're Being Cheated! Corporate and Welfare Fraud: The Hidden Story • Keys to Hope, And To Action • The Penal System: Linchpin of the Corporate Agenda

Her commitment in life is "To help all of us include those who fall in the cracks of society, and transform negative forces into resources for change."

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# WHY TRANSFORMATIVE JUSTICE?



by  
*Ruth Morris*  
January, 1999

cruelty and callousness become hallmarks of that society marks it for divine retribution." Rabbi Dow Marmur adds, "'What is mine is mine' is not a large enough vision on which to build a living community." Yet retributive justice is built squarely on 'what is mine is mine' philosophy, and even restorative justice barely sees beyond it. To build community, we have to set goals so that when one wins, we all win.

For me, the most eloquent of all is Jim Loney of the Toronto Catholic Worker community: "As human beings, it will not be held against us that we failed to create the most perfect social order. Perfection is not demanded of us. *But that we failed to TRY, that we abandoned the poor to the mean-spirited politics of the guard dogs of the global marketplace --- that is failure indeed.*"

I **dare** to ask the question: Are we, even in the restorative justice movement, being conned into being guard dogs of the global marketplace? Unless we challenge the roots, unless we transform, too much of what we do merely reinforces the class and race barriers so vital to the global agenda of the multinational corporations. We become part of the *solution* instead of the *problem* only when we look at each individual crime to be dealt with on two levels:

- As an individual act whose victim and offender must be empowered to find a healing solution, with the communities of both; but also
- As a *symptom of deeper social ills, and an opportunity to help community, victim and offender identify and root out those ills.*

So I challenge you: restored to WHAT? When we live in an unjust society, restoring that unjust situation is sacrilege. Instead, we are called to *transform!*

We *can* plant the seeds of divine justice in the midst of a society dying from greed based economics. We have the **opportunity** to use the new transformative processes springing up in this world in creative ways: native healing circles, community-based victim offender reconciliation, and family group conferencing. Every time we respond to crime in a transformative spirit, we build what Martin Luther King called "The beloved community." We in criminal justice work have a great calling, for our finger is on the pulse of the social ills. Let us use that God-given opportunity, not to restore a diseased status quo, but to transform problems into potentialities, pain into growth, and fear into hope!

## WHY TRANSFORMATIVE JUSTICE? Ruth Morris, CCJA, Printed January, 1999

In Kazantakis' wonderful novel about the life of St. Francis, one night God tells Francis that the next day Francis is going to meet a leper, and he must embrace that leper. Francis had just been telling his companion, Brother Leo, that the ONE thing he could not abide was the sight, and especially the smell of lepers. So, patient as Francis had been up till now with God's demands, he protested for once: "No FAIR! You were listening when I told Brother Leo how I felt about lepers."

Francis went on: "Look here. I gave up my home, my family, every comfort. I stripped myself naked before my village. I gave up even wearing shoes, decent food, a place to sleep at night. I've been hungry, cold, humiliated. Isn't all that *enough?*"

Francis thought he had made a good case. But the divine voice thundered back, "NOT ENOUGH!"



Prophets are always getting that kind of message. It is an uncomfortable message. We offer nice programs that are an improvement on what went before, and some ornery person says "Not enough!" That has become my message about Restorative Justice. When I first read Howard Zehr's wonderful book CHANGING LENSES, and when I first heard David Worth and other Mennonites explain about the wonders of Restorative Justice, I became a complete believer. Here was the answer we

had been seeking: to change the basic lens from revenge to healing. I agreed with Dave Worth that Victim Offender Reconciliation was not just AN alternative: it was the spirit behind all TRUE alternatives to the penal system. I still believe with all my heart that we have to change our lens from revenge to healing. But I no longer believe in Restorative Justice, and this is NOT just an argument about words. It is as deep a difference as the social rifts in our divided society between the haves and have nots, between the wealthy nations and the poor ones, between the whites and the other races.

The argument I am going to present has to do with whether we are prepared to look at the whole challenge before us, or whether we're going to go on as major reinforcers of the social barriers between the privileged and underprivileged. For if we are not prepared to look at crime and every other challenge as an *opportunity to transform*, there soon may not be much of a world left for our children and grandchildren. Greed and consumerism are destroying our sense of community, our social safety network, and our environment. But by transforming the dung of suffering into verdant growth, we can build a world that includes all, and respects all the gifts God gave us. Looking at crime as such an opportunity is our biggest challenge.

### WHAT'S THE DIFFERENCE AMONG ALL THREE?

Retributive justice, our dominant system, sees crime as a violation of the STATE, a problem which begins with the crime, and which must be resolved by punishment. That punishment is supposed all at the same time to bring deterrence, protection, and rehabilitation. In contrast, restorative justice *sees crime as a violation of people and relationships*. It also sees the problem as beginning with the crime, but its goal is much healthier. It seeks to restore wholeness to the victim, and responsibility to the offender.

So how can transformative justice improve on that? Transformative justice goes several important steps further:

- First of all, it sees crime not just as a violation of people and relationships, but also *as an opportunity for transformative healing for all, including the community*. This satisfies the most creative need of victims, to find meaning or significance, so that their suffering somehow makes the world a better, safer, more caring place for others.
- Secondly, unlike both other systems, transformative justice sees the problem as beginning not with the crime itself, but long before,

I correspond with 25 or 30 prisoners across North America. One in Florida is suing the US government on the ground that the CIA is a bigger drug trader than all the drug prisoners in the USA put together. I admire his chutzpah, without encouraging hope for his endeavour. Recently he concluded a letter with these words:

"I pray that you will win all the things you are working for, Ruth  
Because when you win, *we all win.*"

What a beautiful statement! The only real victories in this world are those victories: when we win, we all win together. That is social transformation. That is a victory worth having.

### CONCLUSION

Every crime is a symptom of far deeper issues, and an opportunity to TRANSFORM a society where the great crimes of hunger, homelessness, greed, oppression, preventable infant mortality, bigotry, and environmental rape can be challenged. Pogo said: "We have seen the enemy, and it is US!" The enemy is not some kid who grew up in a series of inadequate foster homes and institutions, and who bears all the marks of exclusion from our society and acts accordingly. The enemy is in the hearts of all of us, when we accept the fact that so many children continue to grow up in degrading conditions, deprived of the most minimal rights of children, while the "haves" squander our resources on conspicuous consumption that fails to fill their spiritual hunger for community.

Every world faith agrees that God judges a society by how it treats the poor. There is *much more condemnation in the Bible of oppression of the poor, than of fornication, thievery, and all our labelled crimes put together*. Marion Best, Moderator of the United Church of Canada declared in 1996, "It is time to stop a growing war against the poor." The Catholic Canadian Religious Conference of Ontario proclaimed, "A society is judged by how it treats its weakest members. All that is needed for injustice to prevail is for people of good will to remain silent."

That great Canadian prophet J.S.Woodsworth wrote, "We are quite sure it is a sin to steal a pin, but we rather admire one who can steal a railroad or a townsite. 'My mine' - what a sacrilege! The little man who was born yesterday and will die tomorrow claims what it took God Almighty millions of years to provide."

Meir Tamani's prophetic words challenge us today: "A society can exist with cruel and selfish individuals, but the moral decay that sets in when

the need to work on the root causes of crime and distributive injustice, and you can see we need a *community committed to work at transformation, a community committed over the long haul to BEING a community.*

RETRIBUTIVE processes fracture communities, families, and lives.

RESTORATIVE processes try to heal victims, and make offenders take responsibility, sending both promptly back to their respective communities.

**Only TRANSFORMATIVE approaches recognize that every crime is both a tragedy and an opportunity to build and involve a new community which includes all, and can help us bridge the social barriers which are destroying us.**

## 5. RESTORATIVE JUSTICE IS TOO EASILY CO-OPTED

Finally, restorative justice is too easily co-opted, precisely because it does not challenge the existing system deeply enough. Years ago Dave Worth said it worried him when he heard officials already talking viciously about "VORPing that kid!" Victim Offender Reconciliation is not meant as an assault weapon, but unless we root out of our hearts the blind acceptance of social injustice and social inequities, we can too easily be used as assault weapons ourselves.

It's no accident that the US justice system in all its obscenity is already co-opting the language of restorative justice. Of course any language can be co-opted and abused - witness the current abuse of the term "reform" for any change by any government, however vicious and destructive. Nevertheless, some terms are more inherently clear, and transformation is one of those.

## WE CAN ONLY WIN TOGETHER

The sum of all this is that we need not to RESTORE, but to TRANSFORM. I challenge those working for restorative justice to rethink the term and the analysis behind it. How can we restore justice when we have *never had anything remotely like it*, and when the rich become daily more wealthy, more arrogant and more oppressive in seizing what is left of our social safety net? Our world is collapsing of the sickness of a greed-based economy, and it is not making any of us happy. Consumerism is the affliction which causes the street youth to steal dollars, and the corporate bandit to steal millions. Only transformation can cure us all.

with the *causes of the crime*. That doesn't mean we who practice transformative justice trivialize the very real wrongs of the latest victim in the long sequence of historical victimizations. We have to start somewhere to unravel it all, and as in restorative justice, we start by dealing with the wrongs of this victim, and the responsibilities of this offender. But we also recognize in transformative approaches that the problem didn't begin here, and that we need to include *the causes of the crime* in our process.

Retributive and restorative justice are content with a snapshot view of crime, one which only looks at one act as significant. Transformative justice includes the past and the future in a creative cine-camera approach. Without transformation, we lose a dimension of reality, and of opportunity.

## FIVE REASONS WHY WE HAVE TO TRANSFORM

We must stop using the flawed words and analysis of restorative justice for 5 excellent reasons:

- 1) WHERE YOU ARE HEADED DOES MATTER
- 2) YOU CAN'T RESTORE THE PAST
- 3) RESTORATIVE JUSTICE ANALYSIS AND PRACTICE REINFORCE STRUCTURAL INJUSTICES
- 4) RESTORATIVE JUSTICE LEAVES THE FULL POWER OF THE COMMUNITY OUT
- 5) RESTORATIVE JUSTICE, BECAUSE OF ALL THESE FLAWS, IS TOO EASILY COOPTED BY THE EXISTING REVENGE SYSTEM

### 1. WHERE YOU ARE HEADED DOES MATTER

As a Quaker, I think I have a special right to understand that we need to look before we leap, especially in this challenging field of corrections. Good-hearted Quakers, led by William Penn, established a new system in Pennsylvania, based on a beautiful idea of penitence. People were supposed to meditate in silence, with just a Bible and some occasional spiritual visitors to guide their meditation. Believing in that of God in every person, these Quakers felt this kind of penitentiary system (based on "penitence") would most effectively change the hearts of criminals.

Besides, they were coming from a system where young children were being hung for petty thefts, and others were having hands cut off and other barbaric maimings. It seemed there was nowhere to go but up. You didn't have to look too hard at what you were proposing provided it was gentler

than the current horrors. So my Quakerly ancestors were one stream of those who created our whole barbaric prison system.

The moral I draw from this and other examples of "progress," is that we DO have to look before we leap. Just because a system seems better than some horror we had before is not enough to justify it. So the fact that restorative justice is better than retributive justice is NOT ENOUGH. In fact, I have increasingly come to believe that *the movement for restorative justice may be as flawed in its root vision and consequences as our Quaker movement for penitentiaries was.*

## 2. YOU CAN'T RESTORE THE PAST

Thomas Wolfe titled a great novel, *You Can't Go Home Again.* Yet the most basic meaning of restorative justice points victims down this blind alley. The first instinct of every person victimized by trauma is to deny its reality, to play the "if only" game, to wish it away, to fantasize that they can have the world back the way it was before. But of course life isn't that way. We can never go back to the way things were before some trauma. Even what are called small crimes - the theft of a few dollars left unguarded - leave the world less safe, less comforting, and disorder our lives and perspectives so we can't go back to the world as it was before that upsetting theft.

Years ago I heard a wonderful talk by an American Congressman who had had 3 limbs blown off by a landmine in Korea. He said, "I spent a whole year replaying that 90 second scenario. I tried stepping over the key spot. I tried seeing something and going around it. I tried being a minute later, so some other poor sod got it instead of me. I tried having it not detonate so easily. I tried every conceivable variation until one day, a year later, I woke up, and I said to myself:

*"I am never going to do ANYTHING with my life until I quit replaying that 90 second scenario."*

And from that day on he began to heal spiritually, and to build a new life which led him on an exciting political career.

Restorative justice, by its very backward facing terminology, encourages victims to keep trying to regain the past. We need a concept that encourages victims, offenders, and the whole community to TRANSFORM, not to try to rebuild a past that never can be recovered. You can't regain the past, but you can *use the challenge to create something*

So what does all this have to do with RESTORATIVE JUSTICE? Just this: restorative justice analysis *fails to look at structural injustice in its analysis!* Although restorative justice appears kindlier than retributive justice, at bottom it is still playing the game. It is willing to pretend we have a level playing field when we are spitting up Niagara Falls. And in fact, unless we acknowledge the huge issues of structural injustice, we are just patsies, low-paid minions of the corporate establishment, doing their dirty work for them.

An incredible young woman spoke at our community's day of testimony on the cuts. She was the product of a sexual assault on her mother, and the victim of incest in her childhood. Surviving teenage suicidal impulses, she succumbed to a major breakdown at 20 and spent time in a mental hospital, then 5 months on the streets of Toronto. Her attempt to find comfort made her a single parent on family benefits. But she is now studying at U of Toronto, and is a powerful spokesperson for those who survive all that society throws at them. When asked what we could do about injustice, she came up with two simple principles:

"Those with power need to change the conditions, and  
Those without power need to shed the shame and guilt."

Do we help them shed the shame and guilt, or do we play the game, by looking at the crimes defined by our loaded system as the only crimes, and not looking back and beyond into their societal roots? Are we willing to see crime as an OPPORTUNITY to glimpse the potential of SOCIAL TRANSFORMATION, as well as transformation of the lives of this victim, and this offender?

## 4. RESTORATIVE JUSTICE LEAVES THE WIDER COMMUNITY OUT

The BEST practitioners of restorative justice do try to include the community in some ways. However, only transformative justice is clearly committed to including the community of the victim and the community of the offender in the *long-term process* of transformation. Transformative processes like Family Group Conferences *create community in fractured urban settings* by finding the people who care about each party, bringing them together, and empowering the community to work together on the long transformative process.

Too many restorative processes pretend a broken heart can be healed in a single step or meeting. The average significant trauma takes at least 2 years for healing, and for major ones, healing is a lifelong process. Add in

more than TWICE the cost of our entire criminal justice system! Most of these "accidents" were preventable, but profit-maximizing decisions caused 800-1000 deaths and a million injuries in 1996 alone.

2) AT LEAST 10,000 CANADIAN WORKERS DIE OF OCCUPATIONALLY CAUSED DISEASES EACH YEAR.

3) CONSUMERS DIE from faulty products such as the famous Ford Pinto, the Dalkon Shield, and a number of dangerous drugs. When banned in North America, the transnational companies very often continue to sell these products, known to be lethal, in third world countries. They've always been our guinea pigs, and now are our outlets for North American banned products. But of course that is not a crime!

4) ANYONE can be the victim of deaths from environmental poisons or disasters.

Some people argue it is somehow more pleasant to die a corporate death than be mugged on the street or shot by a spouse. Ask the hundreds of asbestos workers who slowly choke to death of their agonizing lung disease about this. Or ask Stefan Golab, who died in a series of terrible convulsions from cyanide poisoning, from vats where the company had scrubbed warnings off the sides of the vats. Or ask Ford Pinto riders who died as balls of flame. Unfortunately they're not around to register their opinions.



*in many ways more wonderful than the past ever was.* That is what TRANSFORMATION is about.

### 3. RESTORATIVE JUSTICE REINFORCES STRUCTURAL INJUSTICES

This is *the most critical of all the objections* to Restorative Justice. Around the world, study after study documents the many-layered structural injustices of our so-called "justice systems":

- *Laws* stress the offences of the powerless, and mainly ignore the much larger harms of the powerful
- *Police* widen the gap further: training, assignments, job descriptions, and culture all point them toward arresting low income street offenders from minority backgrounds, and ignoring the enormously damaging offences of corporate criminals and other powerful people
- *Courts and prisons* each carry the bias a step further

Native people and blacks are over-represented by 5-10 times in most penal systems in North America, except where the figures are even more extreme. Unemployment, job discrimination, housing discrimination, lifelong attacks on ones self-image are all part of the incredibly deep racism of our society. And I've become convinced that classism - the oppression of the poor and the systemic barriers between them and escape from their economic prison - is at least as deep, probably deeper.

The average lifespan of a native or black baby is much shorter than that of a white baby. *Is this not a justice issue?* Recently I sat at a day of hearings into the impact of the cuts on our community. I heard person after person describing what it is like to choose between paying your rent, feeding your child adequately, or buying him a jacket for winter. *Is this not a justice issue?* Yet our social policies and most of our governments, far from helping the poor, seem intent on **BLAMING THE VICTIMS**.

Rabbi Dow Marmur quoted Meir Tamani with these powerful words:

*"While a society can exist with cruel and selfish individuals, the moral decay that sets in when cruelty and callousness become hallmarks of that society, marks it for divine retribution."*

In other words, we can survive a few Clifford Olsons and Paul Bernardos. But:

- When we accept tax cuts for ourselves while welfare rates are cut and social housing is sold, and
- When half a million children in Ontario go hungrier every day since the infamous 1995 welfare cuts, and
- When the poor across Canada are oppressed more and more, and
- When the CEOs of the hundred largest Canadian corporations AVERAGE \$2.6 million income a year, much of it in tax-free benefits,

Then we may indeed be doomed.

There are 358 BILLIONAIRES in the world. I can't imagine what one does with a billion dollars. I am told it would take us 40 years of counting every waking moment to get to a billion. But the obscenely wealthy are getting wealthier, and the poor are getting poorer, and there are more poor every day. Those 358 billionaires have **as much wealth as the least wealthy 45% of the world's population!** There is something wrong with this picture.

The richest 5% of Canadians own 46% of our wealth. A Canadian Forum editorial asks: "Should tax policy provide a HAND DOWN not a HAND OUT to the wealthy? Would the wealthy have more self-esteem if they worked for their money, rather than inherited it? Would counselling help the wealthy escape from the culture of wealth? Could changes be made in the tax system to help the wealthy break their cycle of wealth? Is 46% of the wealth sufficient for the richest 5% of the population? Could they get by with 40%?.. Are wealthy people dependent on wealth? How can we reform the tax system to make the wealthy more independent? If tax loopholes were closed, would the wealthy continue to pass their wealth on to their children? Is greed multigenerational?."

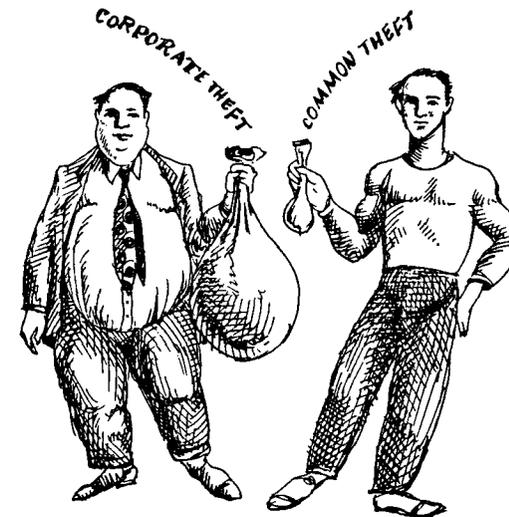
Yet our criminal justice system is one of the lynchpins dividing rich from poor, and pretending there is a moral difference. Now we come to a fundamental point which most of us in Corrections have spent our lives TOTALLY IGNORING. Students of corporate crime universally agree that street crime cannot compare to corporate crime. Take a deep breath and listen to this again, because what I am going to talk about now *flies in the face of all you have been taught from birth, of all the myths our field*

*lives off of, and of all the weight of the corporate owned mass media. But the fact is this:*

IF THERE IS A CRIMINAL CLASS, IT IS THE CORPORATE AND WEALTHY

Why do I say this? Because source after source, after canvassing the facts as deeply as they can, comes to two significant conclusions:

1) Despite the fact that corporations and other powerful players have enormous influence on what laws are passed, CORPORATE LEADERS STEAL \$10 FOR EVERY DOLLAR STOLEN BY THE PEOPLE YOU AND I SPEND OUR LIVES DEALING WITH AS "COMMON THIEVES". That is TEN TO ONE.



2) More incredible still, CORPORATIONS KILL 30 PEOPLE FOR EVERY VICTIM OF HOMICIDE, IN BOTH CANADA AND THE USA.

When I first heard that second statement, I found it hard to credit. I quoted it in PENAL ABOLITION, but I wasn't sure what it meant. Did corporations hire mafia to knock off rivals or what? Not at all. As I have read further, I discovered that all of us are potential corporate victims of violence in four major ways:

1) THROUGH DANGEROUS WORKPLACE CONDITIONS. In 1996 the costs of workplace injuries in Canada were \$20 billion. That is