

Faith-Based Organizations and the Pursuit of Restorative Justice

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Theories of restorative justice have their roots in a variety of religions and cultures, but as a contemporary Canadian justice practice, “restorative justice” is relatively new and untested. Defined by the *Dictionary of Canadian Law* as “the creation of a positive environment for change, healing and reconciliation for offenders, victims and communities,”¹ restorative initiatives can be distinguished from mainstream processes by their voluntary nature, their inclusion of family and community members as justice stakeholders, and their focus on looking forward into future relationships rather than backwards into offences committed. The agents of change include legal professionals, community activists, and members of various faith communities; some of the latter have a long history of working with justice systems in many countries around the world.

A number of authors date the origins of modern restorative justice in Canada back to 1974 and a series of events in Elmira, Ontario that culminated in the first court ordered “victim-offender mediation.”² The case involved two young men who, in a single night of drunkenness, vandalized twenty-two different homes and businesses. At the suggestion of their Mennonite probation officer, the judge in the case directed them to meet with the victims in person and assess what damage they had done. With the mediatory help of the probation officer

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¹ Daphne A. Dukelow, *The Dictionary of Canadian Law*, 3rd ed. (Scarborough: Thomson Carswell, 2004) s.v. “restorative justice”.

² Described among other places in D. Cayley, *The Expanding Prison: The Crisis in Crime and Punishment and the Search for Alternatives* (Toronto: Anansi, 1998) at 215-217; also described by Carol Thiessen, “History of MCC Canada Victim Offender Ministries,” online: <www.mcc.org/canada/restorativejustice/resources/articles>.

and a justice volunteer with the Mennonite Central Committee, restitution arrangements were worked out in money, labour, and repairs. This closed the matter both from the institutional perspective of the justice system and from the human perspective of those individuals who participated.³

The agents of change in the restorative justice framework are a varied group. Among the justice professionals are parole officers and police, lawyers and judges, and institutions such as the Correctional Service and the Law Commission of Canada. In parts of the country, justices of the peace bring their lay perspective and local knowledge to restorative ventures. Groups and individuals rooted in Aboriginal traditions of peacemaking have provided influential examples of restorative initiatives. The victims' rights movement has brought motivated activists into the mix. A few universities – including Simon Fraser and Queen's Theological College – now offer academic studies in restorative justice; some institutions – such as Keewatin Community College and the University of Prince Edward Island – offer “practitioner” training.

In addition, there are faith-based restorative participants providing a catalyzing presence. For example, the Church Council on Justice and Corrections, founded in 1974 by the Canadian Council of Churches and the Canadian Conference of Catholic Bishops, identifies a restorative approach to justice as central to their work. Despite their differences, in this forum the eleven faith communities of the Council⁴ affirm a vision of love, mercy, and forgiveness as restorative principles that can guide and heal communities.

Not surprisingly, the majority of faith-based participants found in Canadian restorative justice ventures are Christian. In the 2001 Census, 76.6% of Canadians reported themselves to be Christian (including 43.2% Roman Catholic and 29.2% Protestant); Muslims accounted for 2%, Jews for 1.1%, Buddhists and Hindus for 1% each, Sikhs for 0.9%, and persons of “no religion” for 16.2.⁵ As a result of this demographic domination, most of the faith-based examples I cite in this paper will be Christian ones. However, I note that Jewish religious courts have been operating in Ontario since 1991.⁶ Queen's Theological College in

³ As recounted by Cayley, *ibid.*

⁴ The Anglican Church of Canada, Canadian Baptist Ministries, Christian Reformed Churches in Canada, Disciples of Christ in Canada, Evangelical Lutheran Church in Canada, Mennonite Central Committee Canada, the Presbyterian Church in Canada, the Religious Society of Friends, the Roman Catholic Church, the Salvation Army, and the United Church of Canada. A list of members can be found at “The Church Council on Justice and Corrections”, online: <<http://www.cjcc.ca/about/memberchurches.html>>.

⁵ Statistics Canada, *Census 2001*, “Religion,” online: <<http://www12.statcan.ca/English/census01/products/highlight/Religion/>>.

⁶ Ontario's *Arbitration Act* of 1991 sanctioned private arbitration, including that of religious courts; *Arbitration Act*, S.O. 1991, c. 17.

cludes "Jewish Family and Life" (www.Social/Action.com) in its "Ten Important Web Sites on Restorative Justice." Influential Mennonite author Howard Zehr talks about the Jewish concept of *shalom* (literally in Hebrew, "peace") in *Changing Lenses: A New Focus for Crime and Justice*.⁷ Much Aboriginal justice programming is spiritual in nature, and would have to be included in the faith-based category as well. Finally, recent proposals in Ontario and Québec for *Shari'a* based arbitration ("Shari'a," in Arabic "the path to be followed in Muslim life")⁸ have ignited controversy across Canada, elicited a negative response from government and called into question the long-standing justice involvement of both Christian and Jewish groups.⁹

A survey of faith-based restorative participation is both timely and important. The commonality of justice interests between faith groups and within secular society has powerful and largely unexplored implications. But restorative justice initiatives are a "grassroots" form of justice, individual to the communities and organizations that host them. There is no central registry. There is no one prototype. Information about them is scattered and empirical. Restorative justice crosses the disciplinary boundaries of religious studies, political science, sociology, criminology, and law. To the extent that there is any consistent method of inquiry into restorative practices, it has been the attempt to measure the quantifiable "outcomes" of a restorative process. However restorative participants themselves question this approach.

There are currently three main ways to evaluate the effectiveness of restorative practices:¹⁰

- Victim and offender satisfaction, which asks the direct participants in a restorative encounter (roughly) "did this work for you?";
- Restitution compliance, which tracks whether or not offenders fulfilled orders to make restitution for their offences; and,

⁷ Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice* (Scottsdale, PA: Herald Press, 1990).

⁸ John Bowker, ed., *The Oxford Dictionary of World Religions*, (Oxford: Oxford University Press, 1997) s.v. "Shari'a".

⁹ The Québec National Assembly banned the use of *Shari'a* courts in May 2005. In September 2005 the province of Ontario rejected a favourable report on *Shari'a* arbitration by Marion Boyd and moved to prohibit all religiously based tribunals. For Québec, CBC News Online 26 May 2005, "Shariah law: FAQs" online: <<http://www.cbc.ca/news/background/islam/shariah-law.html>>. For Ontario, Online 12 September 2005, "McGuinty rules out use of sharia law in Ontario" online: <<http://www.ctv.ca>>.

¹⁰ Department of Justice Canada, *The Effectiveness of Restorative Justice Practices: A Meta-Analysis* by Jeff Latimer, Craig Dowden & Danielle Muise, (Ottawa: Research and Statistics Division Methodological Series, 2001).

- Recidivism recurrence, which measures the level of criminal re-offence by “offender-participants.”

However, these measures are largely outcome not process-based and place much of their focus on the offender. This paper proposes to explore the dynamics of restorative justice in a different way, through an explanatory model that focuses on the participation of faith-based organizations (FBOs) – a consistent community resource in many restorative justice ventures.

It has been argued that restorative processes that break “the professional monopolies that comprise the criminal justice system”¹¹ have values apart from their potential social utility. I suggest we ask the participants themselves what those might be. This paper proposes a three-part line of inquiry, rooted in both legal and religious understandings of the issues at hand. One question to be asked is: who from faith-based organizations is involved with restorative justice – church members, clergypersons, congregations, or church coalitions? Another question is: what are the roles of these actors in terms of education, advocacy, training, or programming? Finally, what is the aim or goal of their work—healing, peacemaking, ministry, discipleship, or witness? Based on scholarly definitions of these various categories, I use empirical examples from a variety of faiths to illustrate a three-part explanatory model of religious participation in restorative justice.

As a final introductory comment, I note that there is no universally accepted definition of restorative justice, nor is there universal agreement on its worth. Whether it is a philosophy of justice, a theology of love, a *praxis* of healing, a manifesto for social transformation, or, less positively, a ritualistic practice both “culpably sentimental and dangerously naive,”¹² the nature and value of restorative justice is open to debate. For its part, *Black’s Law Dictionary* defines restorative justice as follows:

An alternative delinquency sanction that focuses on repairing the harm done, meeting the victim’s needs, and holding the offender responsible for his or her actions . . . Restorative justice sanctions use a balanced approach, producing the least restrictive disposition while stressing the offender’s accountability and providing relief to the victim. The offender may be ordered to make restitution, to perform community service, or to make amends in some other way that the court orders.¹³

A Llewellyn and Howse report has described the practice of restorative justice as one involving all stakeholders to a conflict in a voluntary truth-telling encounter, a “face to face meeting and sharing of stories and experiences . . . be-

¹¹ Cayley, *supra* note 2 at 348.

¹² Annalise Acorn, *Compulsory Compassion: A Critique of Restorative Justice* (Vancouver: UBC Press, 2004) at 19.

¹³ *Black’s Law Dictionary*, 8th ed. (St. Paul, MN: West Thomson, 2004) s.v. “restorative justice”.

tween victim/wrongdoer and community.”¹⁴ Restorative practices are categorized by the Law Commission of Canada and the Church Council on Justice and Corrections under three headings: victim and offender mediations, sentencing or healing circles and family group conferences. Queen’s Theological College adds conflict resolution and circles of support and accountability, creating a five-part model.¹⁵ Finally, it should be noted that there are both “micro” and “macro” perspectives on restorative justice. From a macro perspective, a restorative approach may offer some hope of resolving historical conflict such as Canada’s reconsideration of its residential schools for Aboriginal children, the troubles in Northern Ireland, or South Africa’s attempts to come to terms with its past. Throughout this paper, however, I am considering restorative justice from a local or “micro” perspective.

I. THE FAITH-BASED PARTICIPANTS

Much of the academic literature on faith-based organizations and their contemporary social roles is centered in the disciplines of sociology and religious studies. Most of that literature looks at FBOs’ roles in social welfare issues like health and education (with some attention given to churches as political activists and the role of the church in the American Charitable Choice initiative of 1996). The part that religion might play in the process of rehabilitation – with its targeting of antisocial values and provision of social support – has also been addressed, although as Johnson notes, “considering the prevalence of faith-based organizations known to work with offenders, prisoners, and ex-prisoners . . . it is curious that published research on intentional or programmatic religion is so underdeveloped.”¹⁶

The very term “faith-based organization” has come under scrutiny. The term “faith” rather than “religion” has the advantage of allowing for “the inclusion of organizations that do not conform to mainstream or even organized religious

¹⁴ Jennifer J. Llewellyn & Robert Howse, “Restorative Justice – A Conceptual Framework” (prepared for the Law Commission of Canada, 1998), online: <<http://www.worldcatlinrarities.org>>.

¹⁵ Dennis Cooley, “Restorative Justice in Canada: Lessons Learned” (prepared for the Law Commission of Canada, 2002), online: <www.lcc.gc.ca/research_project/sr/tj/rp/cooley/cooley_toc-en.asp>; Church Council on Justice and Corrections, “Satisfying Justice,” *supra*; Queen’s Theological College, “Restorative Justice: Resources,” online: <www.queensu.ca/theology/Rest_Justice/RJ_Resources_Page.shtml>.

¹⁶ B.R. Johnson, “Religious Programs and Recidivism among Former Inmates in Prison Fellowship Programs: A Long-term Followup Study” (2004) 21:2 *Justice Quarterly* at 352; see also Byron R. Johnson, David B. Larson & Timothy C. Pitts, “Religious Programs, Institutional Adjustment, and Recidivism among Former Inmates in Prison Fellowship Programs” (1997) 14:1 *Justice Quarterly* at 145.

groups,¹⁷ but Smith and Sosin, in a recent article in *Public Administration Review*, suggest that when describing a social service agency “faith-related” is nearer the mark, since “the role of faith across the wide range of religiously tied agencies is more of an empirical question than a settled issue.”¹⁸ However, restorative justice participants are not closely analogous to social service providers who belong to the various social service professions and are paid employees. In restorative justice there are a few “professionals” in conflict resolution and mediation, but the participants are predominantly volunteers, making studies of volunteerism more useful to explain why restorative participation might take place in a faith-based context. In a study of the housing initiative Habitat for Humanity (described as a Christian ministry by its founder), Hays offers this explanation of the organization’s success in attracting volunteers:

The appeal of Habitat to spiritual values supporting community service is an important source of its legitimacy and strength . . . Habitat has tapped a vein of compassion that is not often visible in a society that glorifies self-interest and materialism. It bases its call to direct, personal service on the widely shared Christian belief in the centrality of love for one’s neighbor. Its strong base in churches makes it an excellent vehicle for religious communities to engage the larger community.¹⁹

Restorative justice likewise calls participants to direct personal service of their neighbour and engagement with the larger community, and I am interested in the ways in which and the reasons why they might do so.

One question that arises, although it is beyond the scope of this paper to answer, has to do with why different churches pursue different forms of social activism. Or, in this case, why *restorative justice*? In an article on American churches, Carlson-Thies suggests there are two models for the social role of churches: one where the church acts as an advocate for the poor, for whom it has a communal and political responsibility and whose poverty it understands to have structural causes in society; and a second model in which the church acts as an alternative caregiver to (with some suspicion of) the government and engages the poor through the transformative power of religion.²⁰ Carlson-Thies associates the first model with “liberal” churches and the second with “conservative” ones. In another study on American congregations and social services, Chaves and Tsitsos

¹⁷ Susan M. Chambré, “The Changing Nature of ‘Faith’ in Faith-Based Organizations: Secularization and Ecumenicism in Four AIDS Organizations in New York City” (2001) 75:435 *Social Service Review* at 437.

¹⁸ Steven Rathgeb Smith and Michael R. Sosin, “The Varieties of Faith-Related Agencies” (2001) 61:6 *Public Administration Review* 651 at 652.

¹⁹ R. Allen Hays, “Habitat for Humanity: Building Social Capital Through Faith Based Service” (2002) 24:3 *Journal of Urban Affairs* 247 at 265-266.

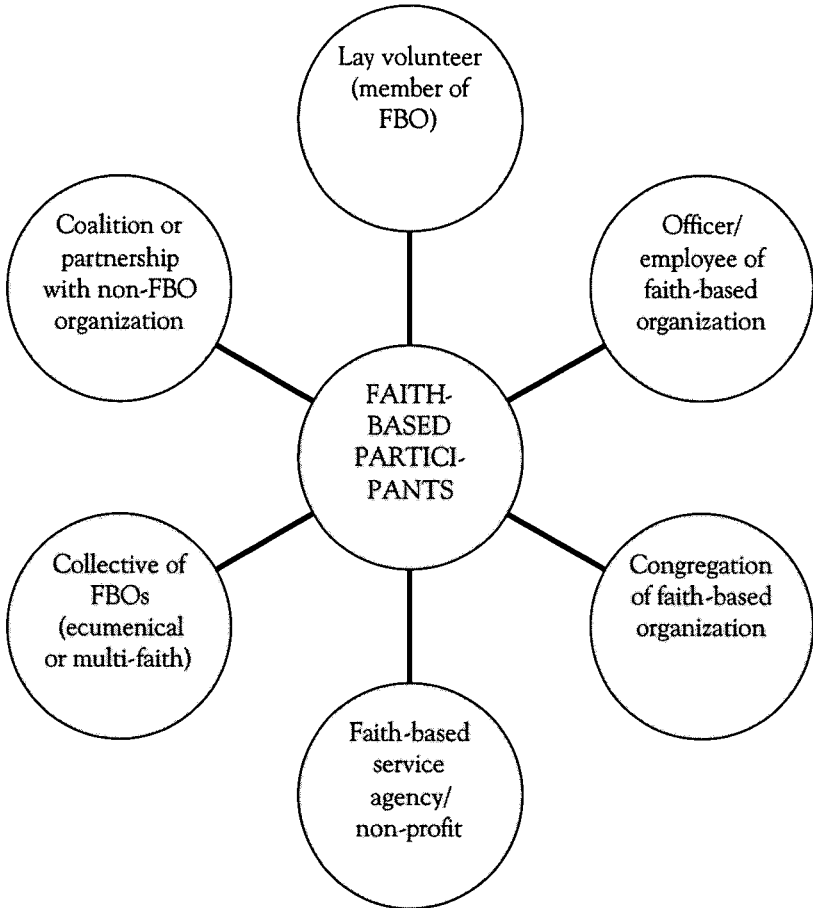
²⁰ Stanley W. Carlson-Thies, “‘Don’t Look to Us’: The Negative Responses of the Churches to Welfare Reform” (1997) 11:667 *Notre Dame Journal of Law, Ethics & Public Policy*.

note that “theologically liberal congregations . . . do more social services than self-described conservative congregations” and that there are “enduring differences among religious traditions regarding many different manifestations of civic engagement.”²¹

The relevant civic engagement is this engagement with the justice system. The first question proposed in the faith-based participation model asks not which churches are involved, but rather who, from a church, or indeed any faith-based organization, is an active participant in a restorative justice initiative. I suggest six different possibilities, listed graphically in Figure 1:

²¹ Mark Chaves and William Tsitsos, “Congregations and Social Services: What They Do, How They Do It, and With Whom” (2001) 30:4 *Nonprofit and Voluntary Sector Quarterly* 660 at 674.

Figure 1: Faith-based Participants in Restorative Justice



A first possibility is a lay member of a church (here I will use “church” rather than “faith based-organization” for simplicity and to reflect the Canadian context) acting in some capacity in a restorative justice process. A second possibility is an officer of a church, such as a minister, a designated representative, or formal employee of a church. Third, a church congregation might act collectively. Fourth, a church might support an administratively separate service agency like a non-profit organization or a non-governmental organization which itself participates in restorative ventures. Fifth, ecumenical and multi-faith coalitions can be found acting restoratively. Finally, churches may also partner in various ways with non-faith-based organizations, from federal departments to community

groups, to provide and participate in restorative activities. Below are examples of each group.

1. Lay volunteers

An individual, of course, may not be “a member of a church” but may still understand herself to be a “faith-based participant.” These two possibilities may be conflated into a single category: the person would therefore be acting as a private member of the laity (in Christianity, from the Greek “the people of God,” understood to have their own privileges, duties, and sacred vocation),²² and not as a representative, official, or employee of a church. Historical examples include English Quaker Elizabeth Fry and Nonconformist John Howard, both credited as parents of prison reform. A contemporary example is Sister Elaine MacInnes, a Catholic nun who is also a practicing Zen Buddhist and has taught yoga and meditation to prisoners in the Philippines, Great Britain and Canada with the hope of making prisons “a place of hope and healing through Zen.”²³ Another example is the late Donald Laitin, a member of the Religious Society of Friends in Ontario and a longtime activist on a variety of peace and reconciliation issues. A fellow Friend described his life: “Donald just saw himself as being, or wanting to be, a force for peacefulness and helping reconcile differing people and differing views, as well as diminishing violence.”²⁴

Faith-motivated volunteers may also join collective efforts in restorative justice. Salvation Army “soldiers” volunteer in prison ministry as supporters and counselors “selected to include men and women of different ethnic and economic groups so that each probationer may be matched to a counselor on an individual basis.”²⁵ The first faith-based prison in the United States, the Lawtey Correctional Institute in Florida, operates with 500 volunteers from mostly Protestant religious groups who conduct prison worship and offer “prayer-based rehabilitation.”²⁶ Prison Fellowship, founded in 1976 by Charles Colson, claims 100,000 volunteers internationally (1400 in Canada) who minister to prisoners, ex-prisoners, their families, and victims, “promot[ing] the advancement of re-

²² Paul Kevin Meagher, Thomas C. O’Brien & Sister Consuelo Maria Aherne, eds., *Encyclopedic Dictionary of Religion*, vol. I (Washington, D.C.: Corpus Publications, 1999) s.v. “laity”.

²³ David Stonehouse “Zen and the Art of Prison Reform” *Globe and Mail* (9 August 2003) F9.

²⁴ Carol Cooper “Donald Laitin, Quaker Elder 1927-2004” *Globe and Mail* (22 January 2005) S7.

²⁵ Salvation Army, *Restoration: A Corps Officer’s Guide to Corrections Ministries* (Alexandria, VA: Salvation Army USA, 2003) at 18.

²⁶ Doug Saunders “Florida Puts Felons in God’s Big House” *Globe and Mail* (17 March 2004) A1.

storative justice.²⁷ Circles of Support and Accountability (COSA) also depend on individual volunteers to provide rehabilitative after-care for released offenders. The Circles, which deal with dangerous offenders such as pedophiles, have been in existence since 1994 and are active across Canada. They have also been piloted in Great Britain. While there is an “outer circle” of professionals who recruit and train the volunteers, the Circles involve “ordinary people” who meet regularly and contract with offenders to “walk with them” on a path towards social reintegration.²⁸ A recent study of the Circles sponsored by the Correctional Service of Canada found that 75% of COSA volunteers identify themselves as Christians. One volunteer explained that her participation “is not of my own choosing or making, but from God . . . This is God saying, ‘You have to do something.’”²⁹

2. Clergy

Churches differ in their understanding of the role of and necessity for the clergy. I am using the words “minister” and “clergy” to refer to “person[s] performing spiritual offices in the Church.”³⁰ In churches that have a clear distinction between laity and clergy (unlike the original Quakers), pastors, ministers or priests may be restorative justice participants. “Elders” in a church or Aboriginal community probably combine both of my first two categories and inclusion of a faith such as Islam would further enlarge the definition. It was a Mennonite minister who organized the first Circle of Support and Accountability in Hamilton, Ontario. Salvation Army Corps Officers have been visiting prisons for generations. The National Parole Board of Canada introduced “Elder-assisted” parole hearings in 1992, considering that elders offer wisdom and guidance to offenders, as well as a perspective on Aboriginal traditions and spirituality.³¹ In Ontario, Jewish rabbis serve in panels on the *Beth Din*, or Jewish courts of law, which deal with civil, commercial, and matrimonial disputes.³²

²⁷ Prison Fellowship Canada, “About PFC,” online: <www.prisonfellowship.ca>.

²⁸ Barbara Kay “Befriend the Sinner, Banish the Sin” *National Post* (22 June 2005) A16.

²⁹ *Ibid.*

³⁰ *Encyclopedic Dictionary of Religion*, *supra* note 2, vol. 2 s.v. “minister” and “clergy”.

³¹ Canada, National Parole Board, “Facts: Hearings for Aboriginal Offenders,” (Ottawa: January 2002), online: <http://www.npb-cnrc.gc.ca/infocent/infocent/fatsch/hearings_e.htm>.

³² Ron Csillag, “B’nai Brith supports Islamic religious courts,” *Canadian Jewish News: Internet Edition* (21 July 2005), online: <<http://www.cjnews.com/viewarticle.asp?id=4324>>.

3. Congregations

Congregations, be they mosques, temples, churches or synagogues, are the community organizations through which people collectively participate in religious activity, and they can also be found acting collectively in restorative efforts.³³ Sometimes congregations adopt a pre-existing program or a constituency. For example, Unitarian Universalist congregations planted and tended a garden with residents of a women's jail in Kansas City, Missouri, and partnered with a women's work-release centre to mentor former prisoners in Harrisburg, Pennsylvania.³⁴ Sometimes congregations are creators of programs. The Langley Mennonite Fellowship in British Columbia, for example, is largely responsible for the Fraser Region Community Justice Initiatives Association, which has worked in conflict resolution, training, and education for 20 years.³⁵ Other examples of congregational outreach on justice issues from the United Church of Canada include legal aid clinics and lay prison ministry. As their national office describes congregational work:

Small and large, rural and urban, all kinds of congregations show how faith and commitment can meet and overcome extraordinary challenges of poverty, addiction, marginalization, or geographic distance to form communities that are stronger than before.³⁶

4. Service Agencies and Nonprofits

A church may also financially or otherwise support a service agency. Smith and Sosin suggest that the faith-connection for the agency can be a formal funding or administrative arrangement with a religious body, a historical tie to a religious body, a commitment to act within the dictates of a particular religion, or a commitment to act in a way that comes from the teaching of a religion.³⁷ As an example of the latter, they name the American Friends Service Committee, whose mission is "to be 'a practical expression of the faith of the Quakers'." The authors note that "[f]ew of the staff are Quakers, but most nonetheless share the

³³ "Congregation", from the Latin meaning "an assembling". *Webster's New World Dictionary of the American Language*, 2nd College Edition (New York: Simon and Schuster, 1982) s.v. "congregation".

³⁴ Donald E. Skinner, "Congregations Engage with Prison Issue" (2004) Unitarian Universalist World 16 at 17.

³⁵ Fraser Region Community Justice Initiatives Association, "About CJI," online: <<http://www.cjibc.org/index.html>>.

³⁶ United Church of Canada, "Resource," online: <<http://www.united-church.ca/resources>>. Note, site no longer operational; file on copy with the author.

³⁷ Smith and Sosin, *supra* note 18 at 652.

commitment to principles of nonviolence and social justice.³⁸ The Mennonite Central Committee of Canada describes itself as “a relief and development service agency” supported by 15 different Mennonite and Brethren in Christ groups, whose peace ministry mandate is “to encourage reflection, action and witness for peace and justice in church and society”.³⁹ A related possibility in this category would be a “faith-based movement” such as the Catholic Workers, founded in 1933 by journalist Dorothy Day and philosopher Peter Maurin, which operates almost exclusively in the United States. The Workers are known for their 185 “houses of hospitality,” staffed by unpaid volunteers who provide food, clothing, shelter, and a welcome to residents of run-down urban areas.⁴⁰ The Workers are also known for their pacifism, their conscientious objection, and their acts of protest against racism, unfair labour practice, social injustice and war.⁴¹

5. Ecumenical and Multi-faith Coalitions

Faith-based organizations can also act in purposeful coalition with each other, from small local endeavours to worldwide organizations. The Church Council of Justice and Corrections is a prominent Canadian example, its mission being to “act as a shining light for a more humane way of doing criminal justice.”⁴² A more local example of a faith-based coalition is the St. Luke’s Renewal Centre at Springhill Institution, Nova Scotia. The Centre ministers to prisoners and their families during and after incarceration as a group of “volunteers, laypersons, and clergy from a wide cross-section of churches, religious orders and social groups who feel called by God to Christ’s prison ministry.”⁴³ In the United States, the Christian Community Development Association, founded in 1960, brings together 600 churches and other FBOs to “live out the gospel” by responding to the struggles of the urban poor. The Religious Organizing Against the Death Penalty Project, also American, “works with official religious bodies to develop strategies and to promote anti-death penalty activism within each faith tradi-

³⁸ *Ibid.* at 662.

³⁹ Mennonite Central Committee, “About Us” and “The Peace Making Commitment of the Mennonite Central Committee,” online: <<http://www.mcc.org/canada/about/>> and <<http://www.mcc.org/Canada/peace/>>.

⁴⁰ Jim Forest, “The Catholic Worker Movement,” online: <<http://www.catholicworker.org/historytext/>>.

⁴¹ *Ibid.*

⁴² Church Council on Justice and Corrections, *supra* note 6.

⁴³ “St. Luke’s Renewal Centre: A Project of the Christian Council for Reconciliation,” online: <<http://www.ccprisonministry.org/index.htm/>>.

tion.⁴⁴ In Canada, KAIROS: Canadian Ecumenical Justice Initiatives (“kairos,” usually translated from the Greek as “time,” in this case interpreted as “the moment of transformation through faith”) brings together ten inter-church coalitions to promote “human rights, justice and peace, viable human development and universal solidarity among the peoples of the Earth.”⁴⁵ Although a “social justice” rather than a “restorative justice” organization, KAIROS nevertheless is illustrative of faith-based coalition work.

6. Secular Partnerships

Faith-based organizations also join secular partnerships in restorative initiatives. In Vancouver, the Four Pillars Coalition on Drug Prevention and Treatment is made up of more than sixty public, private, and not-for-profit organizations, including the First United Church and the Salvation Army. The Canadian Families and Corrections Network, with branches in all provinces and territories and a mandate to assist families affected by crime and incarceration, includes numerous community and corrections chaplaincies, the Elizabeth Fry and John Howard societies, a variety of religious service agencies, and, ubiquitously, the Salvation Army.⁴⁶ In Moncton, New Brunswick, the Mennonite Central Committee and the Salvation Army are joining with multiple community partners under the auspices of Family Service Moncton to develop the Moncton Peace Centre, “a community based Centre that models, celebrates and promotes our common humanity through education of the principles of PEACE.”⁴⁷ Although Canadian churches have a longer history in education, health, and social welfare, today they have a place in justice partnerships as well. Graham Stewart, Executive Director of the John Howard Society, recently described their role:

In dealing with the inherent tension between the negative aspects of criminal justice and the recognition that people need opportunity to grow and develop as human beings, the voice of the faith community is an absolutely essential voice to be heard. Tolerance, forgiveness, charity and good will are still valuable concepts and it is the church that is most likely to bring those values to bear.⁴⁸

⁴⁴ Religious Organizing Against the Death Penalty, “About Us,” online: <<http://www.deathpenaltyreligious.org/aboutus.html>>.

⁴⁵ United Church of Canada, “Ecumenical Relations, What is KAIROS?” online: <<http://www.united-church.ca/kairos/>>.

⁴⁶ Canadian Families and Corrections Network, online: <<http://www3.sympatico.ca/cfcn>>.

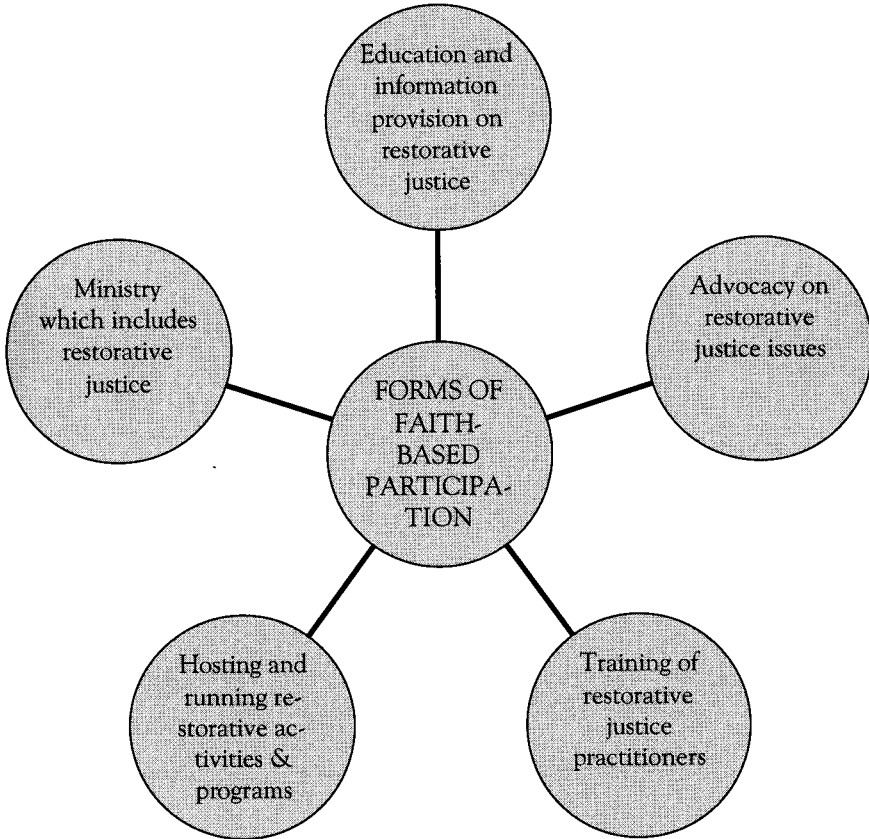
⁴⁷ Tom Snowdon, “Vision Statement” *Moncton Peace Centre Update* (June 16, 2005).

⁴⁸ Church Council on Justice and Corrections, “The Voice of the Faith Community Essential in Criminal Justice,” *The Well: Electronic Newsletter* (2 August 2005), online: <<http://www.ccjc.ca/main/index.html>>. Note, this site is under construction.

II. THE FORMS OF FAITH-BASED PARTICIPATION

Next, I want to consider the various ways in which the faith community might participate in restorative justice. That is, what the faith-based participants (FBPs) actually *do* (Figure 2). First, FBPs may be involved in educational efforts, in the sense of providing information about restorative justice without advocating its adoption. Second, they may act as advocates for the practices of restorative justice. Third, they may train people to facilitate restorative processes. Fourth, FBPs may themselves host restorative activities or run restorative programs. Finally, an FBP's formal ministry may have a restorative focus. I do not view these five forms of participation as being in conflict or being mutually exclusive – either with each other or with secular restorative participation – and there are many cases where one participant engages in a number of different forms of participation. These five forms of faith-based participation are presented below in Figure 2.

Figure 2: Forms of Faith-Based Participation



1. Education

Broad-based educational efforts can be part of a faith-based organization’s mandate. Quakers Fostering Justice, a committee of the Canadian Friends Service Committee, describes its mandate as including a need to “foster awareness and educate ourselves and others as to the roots of crime, conflict and violence in

society.”⁴⁹ Sometimes, educational efforts are targeted by geographic region or by issue. For example, in 2002, the Church Council on Justice and Corrections delivered a series of workshops in Northern Ontario “intended for the general public and those working in criminal justice.”⁵⁰ The session on restorative justice in the faith community was advertised as “a forum that will draw on our faith, theology and Bible stories to both provide information and foster a dialogue on restorative justice.”⁵¹ The Council is also a lead participant and resource provider for “Restorative Justice Week” in Canada, held in November of the last several years; the theme for 2004 was “Engaging Us All in the Dialogue.” Many FBOs also offer educational restorative justice resources on their websites, with occasional papers, newsletters, and other reports easily accessible to the public.

2. Advocacy

Education and advocacy often go hand in hand (“to advocate,” from the Latin, “to speak or write in support of”).⁵² Smith and Sosin, in their study of “faith-related” service agencies, note that advocacy is a different kind of service than welfare or material assistance, since, “advocacy agencies lobby for general causes or specific issues that range beyond the defense of their own resources or rights. Advocacy is legitimated by faiths that require action to improve the world.”⁵³ For example, in 1995, a Pastoral Letter from the New Zealand Conference of Bishops called for a move from retributive to restorative justice:

It is time to re-evaluate what it is we need for true justice to flow throughout this land . . . We applaud the moves being taken in our courts and our prisons towards a more restorative justice system and we greatly appreciate the work of chaplains and others who strive to bring hope in the message of the Gospel of Life and Love. Restorative justice processes for adults would offer a more positive focus and would guarantee a healthier, fairer and more positive form of criminal justice.⁵⁴

Faith-based organizations routinely monitor and speak out purposefully on justice, offering testimony both through the media and in more specific forums like the Canadian Parliament. One specifically focused example of advocacy comes from the Church Council on Justice and Corrections. In 1996, two staff

⁴⁹ Canadian Friends Service Committee, “Jails and Justice Committee: Mandate”, online: <<http://cfsc.quaker.ca/pages/jails.html>>.

⁵⁰ Church Council on Justice and Corrections, *supra* note 48.

⁵¹ *Ibid.*

⁵² *Webster's New World Dictionary of the American Language*, 2nd College ed. (New York: Simon and Schuster, 1982) s.v. “advocacy”.

⁵³ Smith and Sosin, *supra* note 18 at 658.

⁵⁴ Church Council on Justice and Corrections, *supra* note 48.

members of the Council made a presentation to the Parliamentary Standing Committee on Justice and Legal Affairs to oppose an attempt to weaken the “faint hope clause” of the Canadian Criminal Code section 745, which allows a judicial review of the parole eligibility of prisoners with a life sentence. Rick Prashaw argued before the Committee:

“What we do to those in prison, and their families outside of prison, what we do in the name of their victims, we do to all of us . . . When we extinguish hope, when we remove any incentive to change, when we forget that almost all who murder will be back in our midst one day, we forfeit our common humanity.”⁵⁵

In another example, the (American) Friends Committee on National Legislation practices “multi-issue advocacy” which “connects historic Quaker testimonies on peace, equality, simplicity and truth with peace and social justice issues which the United States government is or should be addressing. [The Committee] seeks to follow the leadings of the Spirit as it speaks for itself and for like-minded people.”⁵⁶

3. Training

Faith-based organizations also actively educate and train restorative justice volunteers and practitioners. As reported by Robert Cochran, Jr. in the 1970s, a conference on Alternative Dispute Resolution attended by American Bar Association representatives was instructed by Mennonite dispute resolution groups in means of conflict resolution alternatives to negotiation and litigation.⁵⁷ In a more current example, the Mennonite Central Committee (U.S.) holds a summer training institute to teach participants skills in mediating family, school, church, and community conflicts.⁵⁸ St. Luke’s Renewal Centre in Springhill trains volunteers to do prison visitations and family assistance.⁵⁹ Bridges for Life, founded in Texas in 1998, is a faith-based restorative venture that has developed a curriculum for volunteer groups in prison ministry that covers responsibility, accountability, confession, repentance, forgiveness, and reconciliation.⁶⁰ As mentioned previously, faith-based (as well as other) post-secondary participants offer addi-

⁵⁵ Church Council on Justice and Corrections, *supra* note 48.

⁵⁶ Friends Committee on National Legislation, “What is FCNL?” online: <www.fcnl.org/whatis.htm>.

⁵⁷ Robert F. Cochran, Jr., “The Criminal Defense Attorney: Roadblock or Bridge to Restorative Justice,” (1999-2000) 14:1 211 *Journal of Law and Religion* at 211.

⁵⁸ Mennonite Central Committee, “The Peace Making Commitment of the Mennonite Central Committee,” online: <<http://www.mcc.org/canada>>.

⁵⁹ St. Luke’s Renewal Centre, *supra* note 43.

⁶⁰ Cynthia Calvert, “Bridges to Life – a Christmas Story” *Greater Houston Weekly* (22 December 2004), online: <www.bridgestolife.org/media/greaterhoustonweekly04.htm>.

tional restorative curricula as well: St. Thomas (Catholic) University in Fredericton, New Brunswick has a class on “Peacemaking Criminology and Restorative Justice” and Menno Simons College (Canadian Mennonite University) in Winnipeg offers multiple courses on conflict, faith, and restorative justice.

4. Programming

Two main possibilities in this category become apparent. First, faith-based organizations may act as organizational “hosts” for restorative justice activities. Where community service is required in order for an offender to carry out “a ‘reparative’ gesture that can benefit the community,”⁶¹ churches can provide a productive venue. For example, at the United Church in Pleasant River, Nova Scotia, an offender sentenced to 250 hours of service painted a mural of Christ at the front of the church.⁶²

However, an FBO may go beyond providing a service venue or dealing with one individual to actually administering a restorative program over time. Bridges for Life, referred to above, runs its 12-week victim-impact programs in seven different Texas prisons. Prison Fellowship volunteers, trained by the organization, offer three-day in-prison seminars as an outreach tool “to introduce the unchurched inmate to the Christian faith and then to provide the necessary teaching to help the inmate develop more mature religious commitment.”⁶³ Outside the prison setting, an agency of the Mennonite Central Committee of Manitoba, the El’dad Ranch (“El’dad” being a Hebrew word meaning “God has loved”), runs a residential treatment centre that offers mentally disabled male offenders an alternative to incarceration.⁶⁴ On a broader scale, in 2004, the United Methodist Church adopted a Mission Plan for Restorative Justice Ministries that calls for Church members at every level to “initiate models of restorative justice with service providers, policy makers, and law enforcement” and to “intensify our redemptive ministries with those who work within criminal justice, victims of crime and their families, those who are incarcerated in jails and prisons and their families, and communities traumatized by crime.”⁶⁵

Likewise on a broad scale, the Salvation Army, which itself uses the word “Restoration” to describe its work, has been doing Canadian justice work since 1890, when the Army’s Prison Gate Home in Toronto became Canada’s first

⁶¹ Church Council on Justice and Corrections, *Satisfying Justice*, *supra* note 4.

⁶² *Ibid.*

⁶³ Johnson, *supra* note 16 at 338.

⁶⁴ Mennonite Central Committee Manitoba, “El’Dad Ranch,” online: <www.mcc.org/manitoba/programs/eldad.html>.

⁶⁵ United Methodist Church, “Mission Plan for Restorative Justice Ministries,” online: <<http://archives.umc.org/interior.asp?mid=689>>.

“half-way house” for reintroducing offenders to society. Today, the Army’s Correctional and Justice Division is responsible for a wide variety of programming, including residential services, youth courts, victim assistance, family reintegration, and teaching-based programs for sex trade workers and their clients.⁶⁶ For example, the Army’s Vancouver Harbour Light Addictions and Rehabilitation Centre, which has served the city’s Downtown Eastside for 50 years, is a multi-service provider with a staff of 77 and a budget of four million dollars, “dedicated to the recognition of the dignity and worth of people – where God’s love is demonstrated in a practical way.”⁶⁷

FBO programming may also take place in cooperation with secular agencies. An example is the Collaborative Justice Project in Ottawa-Carleton, which began in September 1998, as an initiative of the Church Council on Justice and Corrections. The Project, supported among others by the Ottawa Crown Attorney, Justice Canada and Correctional Services Canada, offered a reparative process for serious crimes (both youth and adult) including victim-offender mediation and circle conferencing.⁶⁸ Another broad-based coalition, the Moncton Peace Centre referred to earlier, has the long term goal of offering conflict resolution, mediation, and victim-offender reconciliation services in addition to counseling, education, and public awareness programming.

5. Ministry

As churches differ in what they mean by the term “minister,” so do they differ in what the ministry of a church includes and who is responsible for it. The United Church of Canada, for example, “recognizes that God’s call to ministry is to the whole church.”⁶⁹ The *Encyclopedic Dictionary of Religion* defines the ministry as “any apostolic or evangelical activity, a body of clergy, or the total mission of the Church.”⁷⁰ This paper will focus on the “activity” that a church carries out as it intersects, interacts, and sometimes replaces, the activity of the Canadian justice system. It is this activity that I understand to be ministering to people affected by crime and conflict.

An early example with respect to restorative justice activities is prison ministry. According to the Salvation Army, their Corps Officers’ Corrections Ministry

⁶⁶ The Salvation Army, “Justice System Relies on Hundreds of Programs,” A Partnership Marketing Supplement to *Globe and Mail* (27 November 2002) E5.

⁶⁷ Salvation Army, *Vancouver Harbour Light Programs & Services*, online: <www.harbourlightbc.com>.

⁶⁸ Church Council on Justice and Corrections, *supra* note 48.

⁶⁹ United Church of Canada, “Becoming a Minister,” online: <www.united-church.ca/ministry/becoming/>.

⁷⁰ *Encyclopedic Dictionary of Religion*, *supra* note 22, vol. 2 at 3333.

involves the following activities: pastoral prison visitation; correctional worship opportunities; the League of Mercy (gift-giving); prayer partners; prison card ministry (greeting cards); placing literature in institutions; Bible correspondence programs; memberships on community corrections boards; and working with prison personnel.⁷¹ The Army explains:

There are at least two good reasons why Salvationists are concerned with people in prison and their families. One, it is the command of the Master; and two, it was the vision of our founder. William Booth, the Army's founder, had a deep sympathy and compassion for people paying the penalty for law violation by serving time in prison. In his book, *In Darkest England and The Way Out*, he proposed methods whereby prisoners might be helped and brought to knowledge of God's salvation.⁷²

The United Methodist Church explains their ministry of restorative justice in the following way: "The gospel . . . conveys the message for Christians to be healers, peacemakers, and reconcilers when faced with brokenness, violence, and vengeance. The concept of restorative justice shows us specific ways by which to transform lives and effect healing."⁷³ The Mission Statement of the Mennonite Central Committee "reflects the biblical call to care for the hungry and the thirsty, the stranger and the naked, the sick and those in prison (Matthew 25:35-36)," and the MCC defines its peacemaking ministry as "reach[ing] out to all people caught in fear, suffering, hate, oppression and violence. Peacemaking involves reflection, prayer and an active, non-violent witness to the structures that cause and perpetuate injustices and violence."⁷⁴ Finally, the World Council of Churches, which brings together 340 plus churches from around the globe, describes their Decade to Overcome Violence (2001-2010) as "a reconciling ministry in a violent world."⁷⁵

III: THE AIMS AND GOALS OF FAITH-BASED PARTICIPATION

In the theoretical model developed in this paper, I also seek to identify the aims and goals which faith-based participants hope to achieve by their restorative justice work. I am looking for something other than a measurable "outcome" that a restorative practice might result in (such as quantitative measures currently in

⁷¹ Salvation Army, *Restoration*, *supra* note 25 at 3-11.

⁷² *Ibid.* at 1.

⁷³ United Methodist Church, *supra* note 65.

⁷⁴ Mennonite Central Committee, *supra* note 39.

⁷⁵ World Council of Churches, online: <www.overcomingviolence.org/dov/nsf>. Site no longer operationl, file on copy with author.

use). I am also looking for something other than a psychological or emotional “motivation” that might stir an individual to action. Annalise Acorn argues that because “so many of the roots of restorative justice are theological” our attraction to its philosophy is bound up with our feelings about the divine: “the more we are emotionally drawn to a religious ethic of love, the more we will be motivated to struggle to make restorative justice work.”⁷⁶ But I am focusing on the organizational missions of faith-based organizations rather than the emotional needs of individuals, and I find that the term “aim” (meaning “the object to be attained; intention or purpose”) or “goal” (meaning “an object or end that one strives to achieve”) best express what I mean.⁷⁷

A 1978 study of Protestant congregational goals identified four church priorities: preaching the Gospel, providing religious education, creating strong fellowship, and providing spiritual guidance for members. Mission and outreach goals, ranked lower in importance by both clergy and laity, included evangelism, charity, and social action.⁷⁸ Because restorative justice initiatives engage churches with wider society, I associate restorative justice with “mission and outreach” goals, but there are other possibilities as well. I suggest six aims or goals below in Figure 3, some of which have an identifiable place in legal theory and others that do not. Recalling that the current approach to “program evaluation” of restorative justice involves the four measures, victim satisfaction, offender satisfaction, restitution compliance, and recidivism⁷⁹, consider the six aims of faith-based participation in restorative justice:

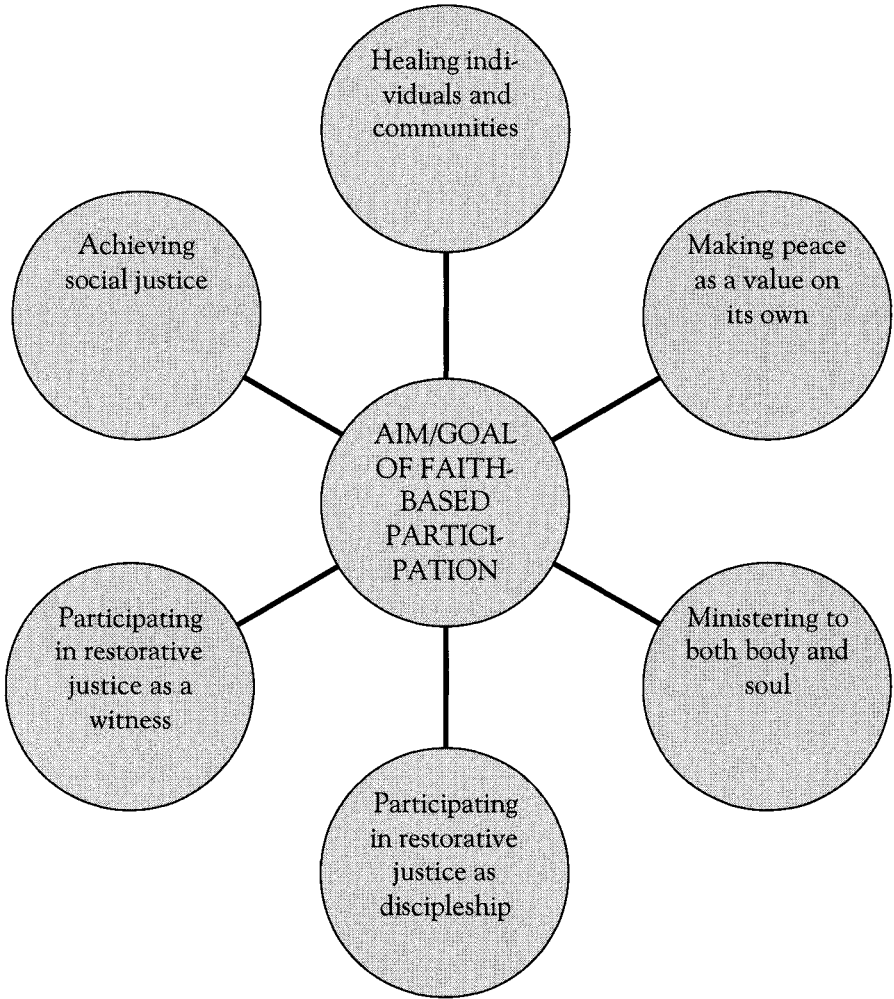
⁷⁶ Acorn, *supra* note 12 at 19.

⁷⁷ Webster's *New World Dictionary of the American Language*, *supra* note 52 s.v. “aim” and “goal”.

⁷⁸ Dean R. Hoge, Everett L. Perry & Gerald L. Klever, “Theology as a Source of Disagreement about Protestant Church Goals and Priorities,” (1978) 192 *Review of Religious Research* 116 at 118-119.

⁷⁹ Latimer, Dowden, & Muise, *supra* note 10 at 17.

Figure 3: Aims or goals of faith-based participation in restorative justice



Keeping in mind that this paper is examining the aims or goals of the *faith-based participants themselves*, Latimer, Dowden, and Muise's first two goals – victim satisfaction and offender satisfaction (which roughly boil down to “this process worked for me”) – overlap with healing, peacemaking, and ministry goals. Their third goal, restitution compliance (meeting any requirement on an offender's part to “make up” for her offence in a material or other way), overlaps healing and peacemaking goals, and their fourth goal, decreased recidivism, overlaps peacemaking and social justice goals.

1. Healing

I am using the category of “healing” participation to describe trying to fix something that is broken in a human being or among human beings. In this case it is something that has been broken as a result of crime or conflict, and the healing of individuals, small groups, and communities are all included in the same category (to “heal,” “to make sound, well, or healthy again; restore to health”).⁸⁰ “Healing” is not a legal concept; nevertheless, it is consistently associated with restorative justice. In Canada, some of the earliest *loci* for “justice-as-healing” advocacy have been in Aboriginal communities, although Rupert Ross has identified a number of qualifications. Ross notes that healing is not necessarily “the central goal of every Aboriginal community – or even the numerical majority” (some instead favour punishment) and that “traditional healing programs” may be misused by the powerful in a community “to prevent their abusive friends from being truly called to account in *anyone's* justice system.”⁸¹

Wilma Derksen, writing in *Confronting the Horror: The Aftermath of Violence*, observes that the path to wholeness and healing is itself a subject for debate with pressure being put on victims not only to “heal,” but also to heal in the correct manner and to be on public display while doing so. Derksen identifies three current models of healing.⁸² One, the “justice position,” looks to traditional criminal justice as the path along which healing will occur. A second, the “counseling/support position,” believes that undergoing counseling and belonging to support groups will lead to healing. Third, the “forgiveness position” sees achieving a state of forgiveness (itself a difficult concept) as the necessary path. Noting the deep complexity of recovery, Derksen suggests that the healing journey – in-

⁸⁰ Webster's *New World Dictionary*, *supra* note 52 s.v. “heal”.

⁸¹ Rupert Ross, *Returning to the Teachings: Exploring Aboriginal Justice* (Toronto: Penguin Books, 1996) at 14-15.

⁸² Wilma L. Derksen, *Confronting the Horror: The Aftermath of Violence* (Winnipeg: Amity Publishers, 2002) at 217-218.

dividual to each victim – may sometimes involve all three positions,⁸³ and all three can also be observed interacting in restorative justice.

A vocation for healing participation in a justice situation certainly may exist in secular participants as well as in faith-based ones, but it is the latter that is of interest to this paper. Pierre Allard and Wayne Northey argue that a Christian reading of both the Hebrew Scriptures and the New Testament leads to a rediscovery of the spiritual roots of restorative justice. These authors cite the public ministry of Christ:⁸⁴ “The Spirit of the Lord is upon me, because he hath anointed me to preach the gospel to the poor; he hath sent me to heal the broken-hearted, to preach deliverance to the captives, and recovering of sight to the blind, to set at liberty them that are bruised (Luke 4:18).” Allard and Northey believe that a “theological reflection on criminal justice” points towards the practices of *restorative* justice: “offering opportunities for reparation and peacemaking so that offenders and victims find healing in a community of hope.”⁸⁵

2. Making peace

For *Black’s Law Dictionary*, peace is “the tranquility enjoyed by a political society, internally by the good order which reigns among its members, and externally by the good understanding it has with all other nations.”⁸⁶ The *Encyclopedic Dictionary of Religion* defines peace as follows:

The harmonious union of affections and desires brought about by charity. In this meaning it is first of all the inner tranquility of one who loves God above all; in consequence it is the peace of concord among those who, united in loving God, are united in loving one another as well.⁸⁷

The Dictionary of Religion further distinguishes between the peace of the Old Testament (*shalom*), “a state of ordered and harmonious well-being, whether this applies to an individual, a social group or nation,” and the peace of the New Testament, which has been extended and expanded into a state of grace which Christians “must strive to deepen and to disseminate.”⁸⁸

Like healing, “peacemaking” is also a secular concept and secular goal; there are many in society who strive to deepen and disseminate peace between people

⁸³ *Ibid.* at 225.

⁸⁴ Pierre Allard & Wayne Northey, “Christianity: The Rediscovery of Restorative Justice” in Gerry Johnstone, ed., *A Restorative Justice Reader: Texts, Sources, Context* (Portland, OR: Wilan Publishing, 2003).

⁸⁵ *Ibid.* at 166-167.

⁸⁶ *Black’s Law Dictionary*, 4th ed. (St. Paul, MN: West Publishing Co., 1951) s.v. “peace”.

⁸⁷ *Encyclopedic Dictionary of Religion*, *supra* note 22, vol 2 s.v. “peace”.

⁸⁸ *Ibid.* s.v. “peace”.

and between nations without citing religious motivations or convictions. But it is notable that adherents of the three “historic peace churches” (the Mennonites, the Brethren in Christ, and the Religious Society of Friends) have extended their traditional peace witness *against* war into a peace witness *for* restorative justice and active participation in its initiatives.⁸⁹ Christian-based restorative participants from a variety of denominations cite Matthew 5:9: “Blessed are the peacemakers: for they shall be called the children of God.” Restorative justice, in all of its manifestations, does indeed offer participants a forum in which to strive for the goal of peacemaking.

3. Ministry

“Ministry” is a concept that clearly fits within the sphere of religion rather than the sphere of law. Having discussed “ministry as activity” in a previous section, ministry is here examined as a mission or a goal of faith-based participation in restorative justice. Of note, evangelism (from the Greek, “the preaching of, or zealous effort to spread, the Gospel”⁹⁰) is not included as a ministerial activity included in this restorative justice model because of the few examples where a faith-based participant has identified evangelism, the conversion of someone to Christianity, or the preaching of the Gospel as an activity they are engaged in through their justice work. This would not preclude evangelism as an aim or goal of certain participants in restorative justice, but that discussion lies elsewhere. Ministerial goals might, however, include facilitating “repentance” and “forgiveness” as part of the restorative process for direct participants: “repentance” in the religious sense “denot[es] a change in a person’s attitude, will, and behavior, sometimes accompanied by feelings of sorrow and regret for past transgressions and perhaps accompanied also by some form of restitution.”⁹¹

“Ministry” described as an intentional process of change or transformation can also be included as a faith-based restorative goal. Prison Fellowship, discussed earlier, identifies ministry as the mission of their organization, “focused on the mission of transformation through the grace and power of Jesus Christ”⁹² In a study on recidivism rates and Prison Fellowship program participation, Byron R. Johnson defines “intentional” or “programmatically” religion as a “religious intervention designed to address some problem area...faith-based drug treatment,

⁸⁹ Interview of Judith Snowdon by Katherine Beaty Chiste (June 2005) MCC Maritimes, Sackville New Brunswick.

⁹⁰ *Webster’s New World Dictionary*, *supra* note 52 s.v. “evangelism”.

⁹¹ Mircea Eliade, ed., *The Encyclopedia of Religion*, vol. 12 (New York: MacMillan Publishing Company, 1987) s.v. “repentance”.

⁹² Prison Fellowship, Welcome to Prison Fellowship, online: <http://www.pfm.org/default_pf_org.asp>.

conversion-based offender rehabilitation programs, spiritual restorative justice programs, and church-based gang intervention strategies.”⁹³ He continues, “in an *intentional* way, therefore [in the above examples], religion is introduced to meet a particular need at a particular time in a person’s life.”⁹⁴ [emphasis added]

The theme of an activist ministry *as itself* a mission of the church cuts across denominations. The 19th century Protestant Social Gospel, which arose in specific response to American industrial capitalism and contributed to inter-denominational cooperation, was “a rejection of earlier emphasis on individual salvation and a renewed appreciation of the corporate nature of the Christian commitment.” It called Christians “to take an active role in promoting reform movements of various kinds.”⁹⁵ An analogy can be drawn between the Social Gospel critique of capitalism and the faith-based critique of (retributive) justice discussed in this paper. The *Encyclopedic Dictionary of Religion* observes, “the Social Gospel proposed a new view of sin in terms of the implications of a solidaristic understanding of society,”⁹⁶ and restorative justice proposes an equally solidaristic understanding of society in its view of crime and criminal activity. If there is a new Social Gospel of justice, the real-world application of faith-based teachings on justice – observable in restorative ventures – would be a ministerial goal or aim essential to participating churches.

4. Discipleship⁹⁷

Discipleship is another of the concepts in this section that fits more naturally in religious theory than in law: “disciple,” from the Latin, meaning “learner-pupil” and by extension ‘follower-adherent’ of a teacher.”⁹⁸ The Anabaptist vision which animated the Mennonites called for believers to live concretely the example of Christ: “[n]o one can know Christ unless he follow him in his life.”⁹⁹ The call, as Menno Simons wrote, was for “*discipleship*, matching word with deed... [w]ords

⁹³ Johnson, *supra* note 16 at 332. Johnson’s study found no significant difference between recidivism rates of Prison Fellowship participants and other inmates over an eight year period.

⁹⁴ *Ibid.*

⁹⁵ *Encyclopedic Dictionary of Religion, supra* note 22 vol. 3 at 3331.

⁹⁶ *Ibid.*

⁹⁷ Interview of James Loewen-Malloy of MCC Canada by Katherine Beaty Chiste (September 16, 2005) Winnipeg, Manitoba. Mr Loewen-Malloy has suggested to me that “mentorship” may be the secular equivalent of “discipleship” and that “education and advocacy” may be the secular equivalents of “witness.”

⁹⁸ *Encyclopedic Dictionary of Religion, supra* note 22 vol. 1 at 1067.

⁹⁹ Leo Driedger, *Mennonite Identity in Conflict* (Lewiston, NY: Edwin Mellen Press, 1988) at 14.

without actions do not edify.”¹⁰⁰ I am using the term “discipleship” to describe another goal present for faith-based restorative participants. Anabaptist theology located the sacred not in texts, objects, people, positions, or in buildings, but rather in the fellowship of believers and the visible deeds which they performed.¹⁰¹ It is a striking feature of restorative justice that its practices entail both visible deeds on the part of participants and a necessary fellowship – even if a temporary one – among them.

Major Bill King describes the deeds of The Salvation Army Corrections staff and volunteers as “walking alongside” offenders and their families.¹⁰² This is an example of discipleship. Pozzi Montero and Preussler point out that in Christian *praxis* “[i]t is not enough to provide services. The call requires us ‘to be with.’”¹⁰³ This “theology of accompaniment” asks for acceptance, understanding, humility, and openness, in an actual relationship with an actual person – a setting that the restorative justice practices of mediations, circles, and conferences provide.

Variants of Christian social activism outside of the justice sphere also call for participants to “walk alongside.” The Christian Community Development Association asks volunteers to relocate to poor neighbourhoods as an act of “incarnational ministry.”¹⁰⁴ Habitat for Humanity volunteers build houses alongside low income earners and report a “direct, pragmatic connection to others through service.”¹⁰⁵ One of the identified possibilities for faith-based organizations under the U.S. Charitable Choice initiative is that the FBOs will move from “commodity-based benevolence,” where material help is provided to the downtrodden, to “relational” ministries that require intense personal contact between provider and recipient. These relational ministries would also fall into the category of discipleship.¹⁰⁶

¹⁰⁰ *Ibid.*

¹⁰¹ *Ibid.* at 13-14.

¹⁰² Interview of Major William King, Executive Director, Salvation Army Correctional & Justice Services, Community Resource Centre (22 June 2005) Moncton, N.B.

¹⁰³ Carlos Fernando Pozzi Montero & Rebecca S. Crisafulli Preussler, “Psychology and Social Justice: Working Towards a Christian Justice-based Model of Integration” (2002) 2:4 Journal of Psychology and Christianity 301 at 306.

¹⁰⁴ Wayne L. Gordon, “Theology of Ministry: Christian Community Development,” Christian Community Development Association, online: <<http://www.cdda.org>>.

¹⁰⁵ Hays, *supra* note 19 at 262.

¹⁰⁶ Daphne Spain, “Redemptive Places, Charitable Choice, and Welfare Reform” (2001) 67:3 American Planning Association Journal 249 at 258. This article summarizes a report on the impact of the Charitable Choice initiative by the Center for Public Justice.

5. Witness

In law, a witness is, “[i]n general, one who, being present, personally sees or perceives a thing.”¹⁰⁷ In religion, “witness” is an act of personal testimony: “[p]ersonal testimony may express itself in a confession, preaching, prayer, teaching, or martyrdom, but it always conveys, unless it is false, a personal commitment to a fact or truth.”¹⁰⁸ A number of faith-based restorative justice participant groups identify “witness” as a central mission. For example, the Mennonite Central Committee of Canada describes their peace-making commitment as being, “...motivated by God’s reconciling love and grace, human need and a concern for justice. Peace and peacemaking are central in all aspects of MCC work, and all MCC workers are part of this *reconciling witness*,” and in the next paragraph, “[p]eacemaking involves reflection, prayer and an *active, nonviolent witness* to the structures that cause and perpetuate injustices and violence”¹⁰⁹ [emphasis added]

As mentioned above, Carlson-Thies contrasts the “liberal” and “conservative” models for the roles of churches in society, the liberal model requiring churches to advocate both for the poor and for structural changes to society. He also describes this model as asking the churches to be a “witness.” Although a church must serve the poor with its own resources, that cannot be the main mission: “[i]t must *witness* to the society, to government, speaking and acting to ensure that society’s communal, political responsibility to uplift the downtrodden and powerless is not neglected.”¹¹⁰ Many faith-based organizations have noted the preponderance of the downtrodden and powerless among those entangled with the Canadian justice system, and through their active support of and participation in restorative justice initiatives, FBOs may indeed express a personal testimony and commitment to restorative ideals.

6. Social justice¹¹¹

This leads me finally to social justice, admittedly a term of great conceptual elasticity. Political science considers social justice to be “an application of the concept of distributive justice to the wealth, assets, privileges and advantages that

¹⁰⁷ *Black’s Law Dictionary*, *supra* note 20 s.v. “witness”.

¹⁰⁸ *Encyclopedic Dictionary of Religion*, *supra* note 22 vol. 3 s.v. “witness”.

¹⁰⁹ Mennonite Central Committee, “The Peace Making Commitment of the Mennonite Central Committee,” online: <<http://www.mennonitecc.ca/peacecommit.html>>. Site no longer operational, copy on file with author.

¹¹⁰ Carlson-Thies, *supra* note 20 at 680.

¹¹¹ Interview Tom and Judith Snowdon, of MCC Maritimes, and Julie Devon Dodd, of the University of Prince Edward Island Conflict-Resolution Studies by Katherine Beaty Cheats (September 2005). These interviews brought to my attention to the connection between restorative and social justice.

accumulate within a society or state.¹¹² In Canada, discussions of social justice usually carry political overtones about the distribution of wealth and power in society. The Centre for Social Justice in Toronto (formerly the Jesuit Center for Social Faith and Justice), for example, aims to [n]arrow the social gaps between income, wealth, and power.¹¹³ The first mission of the Montreal-based Social Justice Committee is “to analyze the underlying structural and global causes of poverty, human rights violations and other social injustices.”¹¹⁴ “Social justice” is invoked in the discussion of everything from globalization and the environment to same sex marriages and the wearing of headscarves. But the pursuit of social justice, in particular as an active concern for the poor and downtrodden, is also understood by many religious bodies as a divinely commanded duty of the faithful.

Abigail Kuzma observes that Jewish and Christian traditions have “a long history of service and advocacy of justice for the poor and needy as an act of love and obedience to God.”¹¹⁵ Laurence Iannaccone notes the difference between religions oriented to collective social activity, such as Judaism, Christianity, and Islam, and those more “privately” oriented (Buddhism, Hinduism, or Shinto).¹¹⁶ A website listing 118 social justice movements, while including more Catholic associated entries than those of any other church, also lists Evangelical, Muslim, Jewish, Unitarian Universalist, United Church of Christ, Mennonite, Quaker, Methodist, Lutheran, and Baptist groups along with a number of ecumenical and multifaith organizations (and many secular ones as well).¹¹⁷ The *Encyclopedic Dictionary of Religion* opens its definition of social justice with the observation that “[a]ll justice of its nature is social, in that it is a rendering of what is due to another.”¹¹⁸ However, the development of the modern state and modern economy:

[H]ave produced new social dimensions that are not completely met by the customary division of commutative justice, which relates individual to individual, or general or legal justice, by which an individual serves the common good, and of distributive justice,

¹¹² Roger Scruton, *A Dictionary of Political Thought* (London:Pan Books and the Macmillan Press, 1983) at 433.

¹¹³ Centre for Social Justice, “About the Centre for Social Justice,” online: <<http://www.socialjustice.org/csjabout.php>>.

¹¹⁴ Social Justice Committee, “Opening Page – English,” online: <<http://www.s-j-c.net/English/index.htm>>.

¹¹⁵ Abigail L. Kuzma, “Faith-Based Providers Partnering with Government: Opportunity and Temptation” (2000) 42:1 *Journal of Church and State* 37 at 65.

¹¹⁶ Laurence R. Iannaccone, “Why Strict Churches are Strong” (1994) 99:5 *American Journal of Sociology* 1180 at 1183.

¹¹⁷ “Social Justice and Social Justice Movements” online: <<http://grimpeur.tamu.edu/~cmenzel/justice.html>>.

¹¹⁸ *Encyclopedic Dictionary of Religion*, *supra* note 22, vol. 3 s.v. “social justice”.

originally described in terms of the proper allocation by authority of dignities and burdens.¹¹⁹

To ensure that the weak and helpless are cared for, “a task previously discharged by smaller groups, families, neighborhood groups, free associations, charitable organizations, and religious foundations,” is now an affair not only for state officials but also “of all citizens who actively participate in the social and political life of their country.”¹²⁰ The *Dictionary* adds of social justice that, “its exercise supposes commutative and general justice, for which it is no substitute, despite the current tendency to the contrary.”¹²¹

The late Ruth Morris – a penal abolitionist, long-time justice reformer, and member of the Religious Society of Friends (Quakers) – once wrote, “the most fundamental command of all world religions is to honour God’s beloved marginalized.”¹²² Morris is associated with the concept of “transformative justice,” which takes the principles of criminal restorative justice to a broader societal application. A transformative approach to social justice seeks to “transform” conflict between social groups having different economic and political interests and different commands of power and resources into an opportunity for societal reconciliation, healing, and growth.¹²³ What restorative justice participants seek for individuals, families, and communities entangled in crime and conflict is also what social and transformative justice advocates seek for larger subsets of society: healthy and equitable relationships among human beings, *and*, the satisfaction of themselves participating in the restorative journey.

IV. A BRIEF THOUGHT ON THEORIES OF JUSTICE

Earlier in this paper, two different definitions of restorative justice from *Black’s Law Dictionary* and the *Dictionary of Canadian Law* were presented. Since the concept has been initially embraced in the legal literature, we might ask about the current judicial perspective on restorative justice. Jennifer Llewellyn, in a recent Comment in *Criminal Reports*, suggests there isn’t much of one at all: “while the door to restorative justice may have been opened, the jurisprudence does not

¹¹⁹ *Ibid.* at 3331.

¹²⁰ *Ibid.* at 3331-3332.

¹²¹ *Ibid.* at 3332.

¹²² Ruth Morris, “Faith in Action,” online: <www3.sympatico.ca/alfiorino/Morris.html>.

¹²³ Dennis Cooley, “From Restorative Justice to Transformative Justice: Discussion Paper” (Ottawa: Law Commission of Canada, 1999) at 47-51.

provide any guidance on how to walk through it."¹²⁴ Llewellyn points out that when the Supreme Court of Canada dealt with restorative justice in *R. v. Gladue*¹²⁵ (in the context of mitigating circumstances in sentencing "disadvantaged" offenders) the Court "explicitly chose not to articulate the concept and principles of restorative justice, but instead left them to be developed over time."¹²⁶

Llewellyn argues that restorative justice is indeed a theory of *justice*, rooted in our mutual human existence in networks of relationships. For her, justice is to be understood as the fairness of relations between people in society. The pursuit of justice requires us to "restore" those social relations that have been degraded from their ideal state of equality, dignity, respect, and concern among society's members.¹²⁷ She might reject, therefore, the *Black's Law Dictionary* reduction of restorative justice to "an alternative delinquency sanction," and the *Dictionary of Canadian Law* would not get that much closer by explaining that restorative justice serves to create "a positive environment for change, healing and reconciliation." I read Llewellyn's description of restorative justice as very close in nature to the "social justice" called for by the more collectively oriented religious faiths.

Llewellyn distinguishes between *social relationships* among members of society, the restoration of which is a duty of justice, and *personal relationships* among individuals, the restoration of which might indeed be beneficial without rising to the level of "doing justice." In contrast, in her recent book on restorative justice entitled *Compulsory Compassion*,¹²⁸ Annelise Acorn focuses on the latter. She argues that the "single distinguishing element" of restorative justice is its "idealized conception of right-relation" between human beings. "Right-relation," she adds, "can serve equally well as a conception of love, and perhaps much better as a conception of love than of justice."¹²⁹ In Acorn's understanding, restorative justice requires the power of "universal love" to fuel its practices: "something big enough to snap offenders out of their propensity to offend; strong enough to quell victims' desire for revenge and to inspire genuine forgiveness; and deep enough to restore the moral bonds of community."¹³⁰ However, she cautions that there is both arrogance and danger in this rhetoric of love. For starters, the demographics

¹²⁴ Jennifer J. Llewellyn, "Restorative Justice in *Borde* and *Hamilton* - A Systemic Problem?" (2002) 8 C.R. 308 at 309.

¹²⁵ *R. v. Gladue*, [1999] 1 S.C.R. 688

¹²⁶ Llewellyn, *supra* note 124.

¹²⁷ *Ibid.* at 312.

¹²⁸ *Supra* note 12.

¹²⁹ *Ibid.* at 23.

¹³⁰ *Ibid.* at 27.

of restorative justice mean that it is disproportionately female victims of violence who are thus required to love their victimizers.¹³¹

Offering the harshest critique of restorative justice in the legal literature to date, Acorn's chapter titles are indicative of her stance: "The Seductive Vision of Restorative Justice;" "Essentially and Only a Matter of Love;" "Three Precarious Pillars of Restorative Optimism;" "Sentimental Justice;" "Lovemaking Is Justice-Making;" "Compulsory Compassion;" and, finally, "Restorative Utopias." She concludes that the vision of restorative justice, far from being ideal, is not even desirable:

The sensibility of restorative justice is drawn from a whitewashing culture informed by new-age thinking ("I love and affirm everything in the universe"), self-help ("what I hear you saying is . . ."), pop psychology's mantra that "revealing is healing," and a soft religion that, instead of seeing punishment as an integral part of processes of repentance and forgiveness, sees repentance and forgiveness as a substitute for punishment.¹³²

Charles Villa-Vicencio has also examined the link between restorative and retributive justice, concluding that the two, "properly conceived, belong together. Each is a corrective of the other."¹³³ Retribution, on the one hand, provides a necessary expression of moral outrage in the aftermath of crime – whether an arbitrary murder or a meta crime such as apartheid. Retributive punishment reminds the perpetrator of his status as a moral agent and asserts the value and dignity of his victim. Restorative justice, on the other hand, creates a formally sanctioned public space for the politics of forgiveness premised on truth-telling (and at best offering a possibility of repentance and healing). Villa-Vicencio, writing in the South African context, acknowledges the enormous emotional and spiritual demands that restorative justice can make on criminal victims: "This kind of magnanimity of spirit should never be taken for granted. It cannot be demanded of anyone."¹³⁴

Restorative principles of justice have worked their way into contemporary Canadian thinking on punishment via, among other paths, the *Criminal Code of Canada*. The 1996 amendments to the *Code* made two additions to the traditional sentencing principles of denunciation, deterrence, incapacitation, and rehabilitation as detailed in the *Code* synopsis of the provisions of Section 718:

(e) to provide reparations for harm done to victims or the community; and

¹³¹ *Ibid.* at 44.

¹³² *Ibid.* at 160.

¹³³ Charles Villa-Vicencio, "The Reek of Cruelty and the Quest for Healing – Where Retributive and Restorative Justice Meet" (1999-2000) 14:1 *Journal of Law and Religion* at 166.

¹³⁴ *Ibid.* at 185.

(f) to promote a sense of responsibility in offenders, and acknowledgement of the harm done to victims and to the community. 1995, c.22, s.6.¹³⁵

Llewellyn, for one, thinks that there is no necessary dichotomy between restorative and non-restorative principles of sentencing and that, for example, denunciation and deterrence may be necessary parts of restoration. Certainly, various sentencing principles are interlinked and overlap in any practical application of a justice or sentencing process.

While it would appear that at best the legal community views restorative justice as being in its nascent or infant state, it is noteworthy that the faith-based organizations whose actions illustrate this paper seldom express concerns with any legal or philosophical implications. They have a different standpoint. Most of them talk about restorative justice not as an emerging progression of legal thought and jurisprudence, but rather as a practical way of dealing with community crime and conflict, as well as with human hurt – a sum of processes and practices for which their faiths have both a duty and a calling. Perhaps the greatest illumination that can be shed upon participants from faith-based organizations who involve themselves in various phases and aspects of restorative justice is that they are not justices or keepers of the peace in a legal sense, but rather, simply, Good Samaritans.

¹³⁵ *Criminal Code*, R.S.C. 1985, c. C-46, s. 718.

