Restorative Justice — America’s New Frontier...pg 10

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"Restorative Justice" — America's New Frontier

By Dr. M.G. Maness

"Restorative Justice" — whatever does that mean?

In Woodville, Texas, plans for a Restorative Justice Ministry Family Service Center have begun. Yet, what is it? What will it do?

Lewis and Clark and Restorative Justice

Compare the concept of "Restorative Justice" and the beginnings of this Service Center to the expedition of Capt. Merriweather Lewis and Lt. William Clark. The expedition charted a path through the northwest wilderness of 19th century America to the west coast under a commission from President Thomas Jefferson. In 2003-2004 there will be many commemorations to honor that trek's 200th anniversary. On May 14, 1804, Lewis and Clark left St. Louis, Missouri. On the first day they camped six miles up the Missouri River. They returned two and a half years later on September 23, 1806, logging over 2,000 miles.

They had no map, precedent or guidebook.

At that time, everyone knew that someone needed to go into the wilderness with an "objective" to chart a Northwest pathway, not just make excursions for gold and beaver pelts. President Jefferson had been preparing Capt. Lewis to lead the expedition for over a year. With courage, self-sacrifice and the incredible fiber of individual confidence, Lewis and Clark entered a truly uncharted territory without any precedent and without any promise of success.

That expedition into the wilderness of the 19th century northwest compares to the current state affairs of "Restorative Justice" on both the national and international scene.

Woodville, Texas, and Restorative Justice

In July 2002, John Morrison gathered some community leaders together to discuss the need for a "Restorative Justice" service center in Woodville. Ideas and concerns were bantered about, and a board was founded. In subsequent meetings, some property was donated by the Hayes estate, and the board approved the steps necessary to pursue incorporation.

What "needs" will the Restorative Justice Center meet? Theoretically and broadly speaking, the initial goal was to help those "caught up" in the criminal justice systems. Those "caught up" include the offenders, the victims, their families, the agencies, the churches, and the many other service organizations with specific missions in the county, state, and nation.

Yet, those words about meeting needs lack specificity, and the "vision" of the center lacks deep into the uncharted frontier of the "Restorative Justice" wilderness. It is very difficult to see a clear pathway. Let me explain.

International "Restorative Justice"

"Restorative Justice" (RJ) has been a developing philosophy for about 20 years on the international scene, primarily in places like Britain, Australia, Canada, New Zealand and even Japan and some third-world countries. RJ initiatives sprang up as complements to (even alternatives to) the frustrations experienced in the various nations' failures to curb crime and lower recidivism in those countries. Like the United States, those countries have concerns about crime, yet they have lower crime rates, lower recidivism, and lower incarceration rates per capita than the United States. Enter the significance of RJ.

The Restorative Justice Ministry Network of North America is the leading network on restorative justice with over 57,000 citizens and growing. Its Web site www.rjmn.net defines RJ as the following:

Restorative Justice asks: 1) What will it take to restore "Shalom" (peace) back to this community now that it has been broken by this crime? 2) What will it take to restore a sense of autonomy to this crime victim? 3) What will it take to eventually restore this offender to the community? These questions lead to "healing."

Emmett Solomon has led this effort for several decades. Another leading Web site on RJ is www.restorativejustice.org, and it defines RJ as:

a systematic response to crime that emphasizes healing the wounds of victims, offenders and communities caused or revealed by the criminal behavior. Practices and programs reflecting restorative purposes will: (a) identify and take steps to repair harm done; (b) involve all stakeholders; and (c) transform the traditional relationship between communities and their governments.

The Lewis and Clark expedition into the wilderness compares to the current state affairs of "Restorative Justice" on both the national and international scene.
Theorists like J. Braithwaite, D. Ness, I. Marshall, H. Zehr, C. Bazemore, B. Calaway, and J. Hudson have researched and articulated most of the substantive issues and problems with RJ for the last 20 years. So much so, RJ has been tendered as a kind of new paradigm and even an alternative to current "criminal justice systems." A few more skeptical have given warnings that RJ could be a regression of justice.

In a way, the United States are late comers to the serious international discussions over integrating RJ initiatives formally into the actual judicial processes. Paralleling the international focus on the broader implications of RJ, many criminal justice agencies in the United States have been supporting the more focused agendas of the various "Victim-Offender Mediation" and "Victim Advocacy" programs for adults and children (and other programs focused on healing the pain of victimization). But some of these nascent institutions have been unaware of or lost their connection to their RJ roots; and worse, most of these nascent United States institutions have no ongoing connection to the more judicially pervasive, theoretically holistic, and more philosophically coherent vision of the international community's RJ principles.

Part of the reason for the U.S. hesitancy in the formal integration is that some RJ principles have the appearance of moving underneath the rule of law, like family and community conferencing (where families actually determine some portion of punishment and justice); this kind of conferencing has been a part of less complex cultures and societies for centuries. Another reason is that the "complexity" itself of U.S. criminal justice systems (the federal powers and the near independence of its 50 states) is not easily or quickly changed. Even so, several RJ initiatives have been initiated in many state and county juvenile systems in the United States with respect to the adjudication of juvenile punishment (be that remedial, restitution or other alternatives to simple incarceration).

Throughout the United States, so many good and lasting results have been achieved by the various victim advocacy groups in aiding resolution (even in reparation in some foreign countries) and by the juvenile conferencing models, where a youth is saved from a criminal record, that these initiatives are quickly becoming institutions in themselves. But some of these nascent institutions have been unaware of (or lost) their connection to their RJ roots; and worse, most of these nascent United States institutions have no ongoing connection to the more judicially pervasive, theoretically holistic, and more philosophically coherent vision of the international community's RJ principles.

The international considerations of RJ principles have been about much more than victim advocacy and juvenile restoration. The international considerations have been about the community pain and cost of victimization, the damage to community trust (to social contracts, etc.) and beyond to seriously include the formal integration of the community (monoflaccial personal into the actual adjudication — beyond just a person's duty to sit on a jury in America's current criminal justice system.

Internationally, RJ is not a religious movement, but a developing philosophy that is supported by many governments, special interests groups, cultural representatives, religious groups, as well as leading criminologists and jurists. But with some doubt.

New Zealand's Watershed Study

New Zealand's Ministry of Justice has made some of the most substantive investigations to date. Secretary of Justice, John Belgrave, initiated the research for Restorative Justice: A Discussion Paper (November 1995) that outlined the major research "for" and "against" the RJ philosophy and how RJ principles "may" or "may not" impact New Zealand's current cultures and its total criminal justice system. In June 1998, the Ministry of Justice published Restorative Justice: The Public Submissions, which summarized the results of the feedback from the discussion paper.

New Zealand analyzed RJ principles and their theoretical impact upon an entire government's criminal justice system. The importance of such a thorough study cannot be overestimated for the whole cause of RJ (pro or con). What became evident was the huge degree of complication of RJ side-by-side with the many valid concerns for bringing the community back into adjudication of a crime's punishment. What New Zealand did has yet to be surpassed by a developed country.

For a superpower like the United States to do a comparable study and get a like amount of representative feedback would require an almost unimaginable amount of work. New Zealand is only about four million strong with just over 100,000 square

Continued on page 12
Restorative Justice
Continued from page 11

miles. Just Texas alone is over 2 and a half times the size with over five times the popu-
lation. The complexity of such a self-
analysis for just Texas would be tenfold or
more, to say nothing of a good national
study.

RJ in the United States is still a vast wilderness, too uncharted with so few obvious
natural resources to catch the eye of vent-
ure capitalists and too few proven theo-
ries to catch the curiosity of the grant writ-
ers for any major research institutions.

United Nations and Restorative Justice
RJ continues. At the 2000 United Nations
Crime Congress in Vienna, Austria, in an
ancillary meeting dealing with international
restorative justice issues, John Braithwaite
presented a formative paper, Standards for
Restorative Justice. The first standard was:

Restorative justice programs should be evalu-
ated according to how effectively they deliver
restorative values which include: respect for
the fundamental human rights specified in the
(United Nations (UN) documents) Universal
Declaration of Human Rights, the Interna-
tional Covenant on Economic, Social and Cul-
tural Rights, the International Covenant on
Civil and Political Rights and its Second
Optional Protocol, the United Nations Decla-
rations on the Elimination of Violence Against
Women and the Declaration of Basic Princi-
pies of Justice for Victims of Crime and Abuse
of Power.

The second standard outlined the most
essential values in the above-mentioned
UN documents: restoration of property
loss, restoration of injury to the person or
health, restoration of damaged human rela-
tionships, restoration of communities,
restoration of the environment, emotional
restoration, restoration of freedom, restora-
tion of compassion or caring, restoration of
peace, restoration of empowerment or self-
determination, and restoration of a sense of
duty as a citizen.

At those UN ancillary meetings, the presen-
ters were primarily from NGO's (non-
government organizations), and there were
no presenters from any of the criminal jus-
tice agencies in the United States (federal
or state). The one person that contributed
documents from the United States was
Donald Van Ness, who is the coordinator
for the new International Center for Justice
and Reconciliation, organized by Prison
Fellowship (PF). PF has paved the way for
some prison reform and is clearly aligned
with the Christian religious right in the
United States.

United States, Texas and Restorative Justice
The irony is that there appeared to be only
one person discussing RJ principles from the
United States at the UN auxiliary meetings
with other nongovernment representatives from around the
world, while at the same time the United
States has the largest number of incarcer-
ated and highest recidivism rate in the
world (Texas with the highest incarceration
rate per capita in the United States). That is
truly ironic and sad.

Dialogue with those countries with lower
crime rates and lower recidivism seems to
be in the best interest of the United States
With respect to Texas, PF itself brought
Texas and the Texas Department of Criminal
justice (TDCJ) to the national "religious RJ"
scene by pioneering the funding of the first
prison totally devoted to faith-based values in the history of the United States
with the InnerChange Freedom Initiative.

I am somewhat biased and think TDCJ
and Texas have much to offer the national
and international dialogue on RJ principles.
Texas, TDCJ and their leaders are adminis-
trating one of the largest, most complex
and influential criminal justice agencies in
the world.

Restorative Justice = Meeting Needs
The full implications of RJ are yet to be
manifest, especially in the United States
What is clear is that RJ is about meeting
needs, and those "needs" include dealing
with the very structure of our U.S. criminal
justice systems and all of the stakeholders in
those systems. The stakeholders are every
citizen: victim, offender, employee, volun-
teeer and the families of all these and even
the businesses surrounding all of these.

While RJ is about meeting needs first, RJ
is also about developing new protocols,
informing, contributing and influencing
criminal justice protocols. Whatever it may be called in the future, as
RJ moves beyond the philosophical
stage, we will need to inform more people from
every stakeholder to inform. Among
those most necessary are those at a critical
level — where the offenders live. They are
intricately involved in such world class insti-
tutions like TDCJ. Though PF has led the
way in dialoguing on the international
scene, it would seem prudent that leaders of
the U.S. penal systems themselves should
be engaged in these dialogues, if not lead-
ing them.
The “Wilderness” of RJ

Back to Lewis and Clark and Woodville, Texas. Taking the initiative to go where no one has gone before and stepping out to chart a path through an unknown wilderness demands courage and a sizable risk.

What is a RJ Ministry Family Service Center? It is a point of contact between the church and the criminal justice system — a resource for those caught up in or adversely touched by the criminal justice system. But those words do not say much about “meeting specific needs.” Those “words” are like the wilderness that Lewis and Clark were commissioned to chart. The “words” are broad and meaningless until one crosses the mountain and charts the valleys.

What is the purpose of a Restorative justice Ministry Family Service Center? It is to counsel with a grieving parent whose child was just arrested; to connect that parent with an attorney or help them visit their loved one, to be with a victim or family member and help them network with other specific resources, to provide a place to stay for someone during a jail or prison visit, to connect a parolee with a church, and to provide an avenue for mediation prior to adjudication. These are some of the needs, but by no means the full wilderness.

A RJ center cannot know all of the needs in the wilderness before the trek begins. That is the adventure, perhaps one of the few truly uncharted wildernesses left to be explored. Some of the needs will only come to light when a center is present. Some of the wilderness and definition and charting will only unfold as someone takes the risk to go where no one has gone before.

Texas “Wilderness” of RJ

There are over 148,000 prisoners, over 76,000 offenders on parole and over 430,000 on probation in Texas Department of Criminal Justice (TDCJ). How many more exist in the city and county justice systems? Each of those offenders have mothers and fathers, grandparents and grandfathers, and others; most offenders have children too. Add to that the huge number of victims and their families. Add all those involved in the criminal legal system in Texas: the judges, juries, law enforcement agencies, lawyers, support apparatuses, and their families.

This translates into about half of Texas’ population in some way touched by the criminal justice system — over 10 million good Texas citizens. “Who is not touched by crime?” is less trite and becomes a more formidable and urgent question in light of the pervasive international RJ principles. Those who are touched by crime are involved in RJ, even unknowingly. Isn’t it prudent and cost-effective and democratic that a means be found to more “consciously” involve all of the stakeholders in RJ? At a bare minimum, this ought to entail a “conscious” and “conscientious” dialogue with the international RJ community.

Remember, RJ is about meeting needs. Subtract from the above the needs that are currently met by the victim advocacy and services groups like crisis shelters and food banks (though networking would help meet more needs). Subtract an ephemeral number of those who “do not need help” because they are strong, have family and church and other resources. The difference of those adversely touched would still be several million.

Who are they and what are their needs? That is the uncharted Texas “wilderness” of RJ.

Charting the “Wilderness” of RJ

In Woodville, Texas, a board of directors is pondering how to start a Restorative Justice Ministry Family Service Center. The board does not yet know all of what will be discovered. The board does know that the territory is vast, hostile, and uncharted.

RJ is about the citizen’s involvement in the judicial and criminal justice systems beyond the citizen’s duty to sit on a jury. RJ is about meeting needs. RJ is an initiative in crime prevention, crime reduction, offender habilitation, and recidivism reduction. RJ is not just a response to pain. RJ is of the people, for the people, and hopefully it will be “by” the people — all of the stakeholders.

Like their counterparts internationally, those involved in RJ in Texas and in the United States do not have all of the answers.

Yet isn’t that just what makes up a true adventure? Charting as you go. Discovering what you can on the way. Placing danger signs where needed. Networking. Marking the path as it is discovered. Then, at the end, to be able to say “we boldly went where no one had gone before.” Rest of all, to be able to say, “there are some pictures of the wilderness; here is where a new settlement of peace can be built.”

“Restorative Justice” is America’s new frontier and deserves more support as that frontier unfolds for us in the decades to come. And among the best ways for RJ to unfold is through dialogue with the international community. For more information on RJ visit www.restorativejustice.org, www.rjmn.net, or check out the super list of 900+ of the Internet’s top Web sites on RJ and a bibliography at www.preciousheart.net.