

Does Restorative Justice Let Offenders Off the Hook?

As a movement, restorative justice is gaining momentum in the United States. Its history comes from native healing circles that are designed to hold offenders accountable as well as to heal the people affected by the offense. Modern restorative justice is an approach to criminal justice that seeks to collectively address harms, needs, and obligations. This is done through the voluntary participation of stakeholders in the offense, including the victim, offender, and their communities.

Many people think of restorative justice as a facilitated meeting between victim and offender, often called Victim-Offender Dialogue (VOD); however, this ideal outcome is seldom seen in the criminal justice system. Restorative justice's main goal is to make things between these parties as right as possible. Sometimes putting things right involves a dialogue, but it is not always possible or recommended. When a dialogue does occur, much work is done by the offender beforehand. Additionally, victims are empowered in the process. Whether or not a dialogue occurs, restorative justice makes the victim's needs and desires central.

Opponents of restorative justice believe that it lets offenders off the hook and diminishes their culpability for the harm they caused. Restorative justice, they claim, sweeps offenses under the rug in an attempt to restore status quo. By including offenders in the process of restoration, it may give them limited influence over what punishment they receive. It also changes the focus of the justice system from one of retribution to restoration. These are legitimate concerns, but they misunderstand restorative justice, believing that it diminishes the desires of victims when, in fact, it seeks to meet them.

Restorative justice allows offenders to see the effects that their actions have had on people rather than avoid directly facing the damage they have caused. Additionally, offenders better understand the harm their actions caused their community and prepares them for what they must do to become trusted by the community again. Still, these outcomes do not sit right with some opponents who would rather offenders suffer as much harm as victims do in order to balance the scales of justice.

The practice of restorative justice sometimes results in the restoration of an offender to wholeness. That wholeness, though, does not negate the role of the criminal justice system. This wholeness restores the offender's mind, spirit, and relationships, as well as renews their value to community. These are all necessary to support a former offender's commitment to moral living. If these outcomes were the primary aim of restorative justice, it would be a worthy pursuit. However, restorative justice has another primary aim.

Restorative justice is first and foremost about holding offenders responsible for the harms they caused and for making right those harms. Restorative justice is victim-centered, focused primarily on bringing wholeness to the one who was harmed. Both of these aims, holding offenders responsible for making right their wrongs and bringing wholeness to victims, are often overlooked by the justice system. Instead, its focus is on removing the offender from society and punishing him. The criminal justice system often ignores the needs of the person who was harmed because it is offender-focused, that is, its goal is to punish the wrongdoer. Restorative justice attempts to redirect the focus to where it belongs: on the needs of the victim.

Those who are skeptical of, or outright opposed to, restorative justice practices, believe the role of the criminal justice system is to balance the scales of harm. This is a retributive approach to justice that essentially says the only way to balance the imaginary scales is by punishing offenders for the harms they caused. The retributive approach insists that offenders must forever bear the stigma for their past behaviors, and that society should forever shun them. This belief is what has led to housing and residency restrictions, criminal conviction questions on job applications, ineligibility for some government benefits, sex offender registries, and many other lifetime consequences for committing a crime.

While punishment often serves an important part of justice, whether it is in “balancing the scales” or serving as a deterrent to others, simply punishing offenders does not bring victims wholeness. It does not repair the harms the offender caused, and it does not bring an offender to understand his accountability to repair those harms.

When someone suffers harm, they have a right to confront their offender, if they so choose. They have the right to ask questions, even difficult questions that might not have easy answers. Victims have a right to tell the offender how their actions harmed them and the emotions they have experienced because of those harms. They ought to be able to express what they need from the offender, whether tangible restitution or intangible behaviors. Victims of crime have a right to define and express to the person who harmed them what will make things right and bring them healing. A courtroom, while serving another purpose, accomplishes none of these critical acts of justice. A courtroom is offender-focused, not victim-focused.

Restorative justice is victim-focused, and it does not let offenders off the hook. Rather, it demands more from them. It demands accountability, beyond the scope of a prison sentence. Restorative justice makes victims and their needs central. It prioritizes wholeness, healing, and restoration for victims. If offenders also find wholeness in the process, we ought to celebrate that someone who caused harm in the past is much less likely to do so in the future.