

Nevada Program Uses Mediation to Assist the Homecoming of Released Prisoners

by Barbara Timmons Strahl

Two years into a five-year sentence, Adam (not his real name) receives a letter from his sister. It's an angry letter. Adam has unsuccessfully been trying to communicate with his family since entering the medium security prison. If no one responds to his first attempt at letter writing, he quits writing. The sister is angry because of a letter Adam wrote to his niece. But she's angry about much more than that. She's angry about the huge sums of money she gave Adam for an unsuccessful defense. She's angry that the family has to deal with her brother's possessions. She's angry because her brother is in prison and not with the family. She's angry because he chose to be involved with drugs rather than think about the family. She's angry because their mother is aging and the incarceration is taking a toll on her. She closes the letter by saying that it is easier for him to be locked up than to be out with them. Adam is crushed. And, he responds like many inmates when confronted with someone else's anger and pain. He explains it all away and removes responsibility from himself. He says he doesn't need them and, besides, he will have to focus on himself in order to stay out (Inmate, personal communication, May 17, 2002).

It's the prison way. Barb Toews tells us that incarceration restricts the ability of offenders to deal with what they did and to take the needed steps to address the damage they are responsible for. "Out of necessity, an offender's own needs and self-protection takes precedence over the needs of others. Because prison is a place of victimization, it is difficult to take responsibility

for one's life and past actions or to care about others" (Toews, 2002, p. 6). Martin Wright (2002) explains that punitive sanctions encourage the inmate to think of himself and to deny, or minimize, the harm he caused. What will life be like for Adam when he finally hits the streets again? Where will he go for housing and support? And, what will the family do when he shows up on their doorstep?

Problem(s) of Release

Joan Petersilia reports that record numbers of prisoners are being released -- 635,000 in 2002. Approximately 1,600 inmates a day return to their communities (Petersilia, 2003, p. 3). T. Hughes and D. J. Wilson (2002) report that 95 percent of all state prisoners will be released from prison at some point. Between 1990 and 2000, the total correctional population has increased by 48.7 percent (Maguire & Pastore, 2001). According to James Lynch and William Sabol (2001), the vast increase in incarceration over the last 20 years has turned public attention to the consequences of inmate reentry into the community. It has raised questions about public safety, process, and how society can take in and reintegrate returning offenders. Extended sen-

tences are associated with decreased family contact and decreased program participation such that larger and larger numbers of released inmates have not been a part of educational, vocational, or pre-release programming, all of which ease reintegration.

During incarceration, an inmate loses all decision-making authority, even over everyday functions like eating, sleeping, and talking. For inmates who have spent a long time incarcerated, reentry can be difficult, especially without family support (Trovillion, 1998). If inmates have a family to return to, family support can be a stabilizing influence (Lynch & Sabol, 2001; Trovillion, 1998).

Yet, for every crime and every victim, there are family members of offenders who also become victims (Hewitt, 1997; O'Connor, 2001). Families of offenders not only face the stigma of having a loved one in prison, but they face emotional, social, and economic burdens as well (Dallao, 1997; Trovillion, 1998). They must support themselves and their family, perform survival tasks and make decisions they may not have had to make previously (Dallao, 1997; Trovillion, 1998).

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VOMA Connections

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Please send submissions to:

Editor Russ Immarigeon
563 Route 21, Hillsdale, NY 12529
Phone: 518-325-5925
E-mail: russimmarigeon@taconic.net

VOMA Connections

Russ Immarigeon, Editor
Publications Workgroup

Jan Bellard, Bobbie Boland, Sheri Gatts,
Barbara Raye, Ann Warner Roberts,
Duane Ruth-Heffelbower (Webmaster)

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Victim Offender Mediation Association

Administrators:

Barbara Raye (braye@effective.org)
Doreene Langason (voma@voma.org)
c/o **The Center for Policy, Planning
and Performance**

2233 University Ave, Suite 300
St Paul, MN 55114 USA
612-874-0570 Fax: 651-644-4227

voma@voma.org
www.voma.org

2006 VOMA Board of Directors

Bobbie Boland, Treasurer

Torbay, Newfoundland, A1K 1B4,
Canada
709-437-5760, bboland@nl.rogers.com
International Region I-A

Sheri Gatts, Secretary

Youth Services of So Wisconsin
Madison, WI 53704
608-245-2550 ext 213,
sheri.gatts@youthsos.org
Region C

Dale R. Landry, Co-Chair

Tallahassee, FL 32303
850-553-4393, drlandry11@comcast.net
Region B

Cornel Loghin

Community Safety and Mediation Center
Iasi, Romania
232 353 920, Cloghin@cmssc.ro
International Region I-B

Martin McAnallen

Youth Conference Services
Youth Justice Agency
Belfast, BT1 2DY
Northern Ireland
02890826678,
martin.tookie@btinternet.com
International Region I-B

Sandra O'Brien, Ph.D.

Director, Institute for Youth and Justice
Studies
Florida Gulf Coast University
Ft. Myer, FL 33965-6565
239-590-7835 Voice
239-590-7842, sobrien@fgcu.edu
Region B

Jane Riese, Co-Chair

Family-Child Resources, Inc.
York, PA 17402
717-757-1227, jriese@f-cr.com
Region A

Susan Sharpe

Seattle, WA 98105
206-545-3574
susansharpe@earthlink.net
Region C

Andrea Verswijver

Santa Fe, NM 87508
505-466-6208, dichoso@cybermesa.com
Region D

Barbara Raye & Doreene Langason (VOMA Administration)

**Carol Swenson (Training and
Technical Assistance Coordinator)**
C/o Center for Policy, Planning & Performance
2233 University Ave. W, Suite 300
St Paul, MN 55114
612-874-0570, voma@voma.org

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Reflections

Hurricane Katrina, Environmental Racism & Restorative and Community Justice

by C. Holly Denning

In the wake of Hurricane Katrina, while thousands of people struggled to survive receding toxic, muddy Gulf Coast waters, my heart opened as so many of these and others acted from personal and collective compassion. In researching and thinking about this disaster over the past few months, multiple interrelationships began to emerge, shedding light on the complex picture of life in the Mississippi Delta before, during and after the hurricane.

Sociological studies of disasters, natural and social, and of other crises of late modernity, provide a model and language for unraveling some of the intertwined theoretical threads. Studies are needed to explain this crisis and prepare for, and hopefully prevent some, future disasters. To this end, it is necessary to examine links between political and economic policies that support corporate interests over people's safety, especially for communities of color and the poor.

The massive impact of technology and commercial development on Mississippi wetlands ecology, and of course, the catastrophic failures of the levee system, must be understood, as well as the deep political and economic roots of these issues. Each of these factors had devastating impacts on people's lives and the natural environment itself. The apparent lack of a political will, to fund improvements in levee technology or heed scientific warnings, raises further questions.

This article briefly discusses these concerns. My main interest, however, is not in locating and analyzing blame, though clearly some accountability must be taken. Rather, I will suggest a model for creating potential solutions to address the enormous need following such a disaster.

Restoring shattered lives and communities

Restorative and Community Justice offer both theoretical and practical

models for making positive changes in the midst of dramatic social crisis. Though usually applied in the context of crime, these approaches have applicability far beyond criminal justice.

In these fields, the focus is healing among three interconnected parties: victims, offenders and communities. Each aspect is seen as a critical site for creating a sense of justice in the aftermath of some infraction, whether a misdemeanor or a violent crime and ensuing trauma. These processes support finding inner strength for forgiveness and re-forging trust between survivor and perpetrator, as well as locating resources for healing at the community level.

Great success has been achieved with restorative processes from circles to conferencing and mediation. In addition, schools and workplaces increasingly find restorative justice models to be effective in dealing with conflicts. While more common in the international arena, the United States is slowly embracing the alternative model. Though its roots go back over twenty years, it seems to many that the time has come for the American public to wake up and demand changes in how we respond to crises.

In the wake of Katrina and Rita, other disasters, such as earthquakes, fires, mudslides, recent accidents in West Virginia and Mexican mines, continuing war in Iraq and Afghanistan, and of course, 9/11, the public may be less willing to accept that the government is doing everything it can to protect people and accept responsibility for its failures.

My hope is that if more people knew about the tremendous possibilities for restorative and community justice not only to heal trauma, but also to provide restitution for such a wide range of social conflicts, they would very likely offer support and want to learn more. People might eventually rally behind a new movement for change

bureaucratic, top down strategies as illustrated in the debacle of FEMA, to grow grassroots, collaborative and community oriented organizations that stress personal and collective responsibility and accountability.

Crisis and opportunity

As a sociologist influenced heavily by personal spiritual explorations and deep faith in the Great Mystery, I have made ongoing observations of the paradoxical relationship between crisis and opportunity. My teaching revolves around these interconnected concepts; lectures and discussions offer hopeful visions of the future as I simultaneously teach students about the historical legacies and current expressions of racism, class conflict, destruction of the environment and other social problems.

Katrina raged only briefly, followed closely by Rita, but the aftermath will linger on for months and years. As the next storm season fast approaches, tensions remain high. In reflecting on this historical moment, contradictory feelings emerge and mingle: deep sadness for the loss of life and loss of a unique cultural center, anger at the slow emergency response and government ineptitude, neglect and outright policies of environmental racism and class discrimination.

Appalling social inequalities have been uncovered in the layout of New Orleans' neighborhoods and the Houma Indian communities even further out into the bayous on narrow strips of land south of the city. Extreme poverty and lack of a coordinated plan for evacuation left thousands vulnerable, injured or dead. It has taken several months for the mainstream media and congressional investigations to allow evidence to surface about the extent to which the government, on several levels, is culpable for much of the devastation.

Katrina
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Though many are still in denial about the institutional and personal racism perpetrated for decades in the Deep South, it has become more apparent to much of the world through investigative reporting by the alternative media.

Likely invisible to the general public, but reported by *The Nation*, *The Progressive*, *Yes! Magazine* and *Air America*, to name but a few alternative media sources, immediate, compassionate and efficient responses sprang up from grassroots community efforts and groups providing food, medical assistance, massive cleanup and rebuilding. *Common Ground Collective*, as a case in point, continues to serve as a truly community-oriented group seeking to restore, rebuild, support and heal in response to the disaster. The model is truly restorative and points the way for further creative efforts.

Our risk society

Risks and uncertainties, apparently brought on by Katrina (and close on the heels, with Rita), may be seen as a symptom of late modernity itself; survival challenges may be felt by all of us increasingly, as our comfort zones are breached, whether by "natural" or corporate-created disasters, loss of cheap oil, unemployment, toxic pollution entering our air, water and food, violence, terrorism or a myriad of other social, economic, environmental or political disasters. Even those who feel safely removed, on highly placed pedestals of wealth and power, will not be immune as global economic collapse and anti-Western fundamentalist forces--or indeed any brand of fundamentalism--is unleashed in the potential futures according to dystopian visionaries, such as James Howard Kunstler in *The Long Emergency* (2005) or Ulrich Beck in *World Risk Society* (1999). Beck writes:

Risk may be defined as a systematic way of dealing with hazards and insecurities induced and introduced by modernization itself" (21). In contrast to all earlier epochs (including industrial society), the risk society is characterized essentially by a lack: the impossibility of an external attribution of hazards. In

other words, risks depend on decisions, that are industrially produced and in this sense politically reflexive" (Beck, 1999: 183).

Indeed, one may look at modern post-industrial society as having reached a pivotal moment where the human condition and the planet itself is at risk from socially created disasters. Examples previously thought to be natural, such as floods, hurricanes, diseases and drought, can be linked to science gone awry. For instance, the loss of wetlands in the Mississippi Delta can be clearly linked to human intervention. Global warming has been seen as a culprit behind the ever more chaotic weather patterns across the globe and especially for more intense storms seasons. Pollution from toxic chemicals in the New Orleans basin created a mix of water, mud and sludge that even today is making recovery workers in the vicinity ill.

Such realistic, if somewhat pessimistic scenarios, have gotten much press; and I agree, certainly we, especially those of us in the West, must pay more attention to the insightful warnings about the need to change our materialistic, unsustainable practices of over-consumption.

New options

An alternative vision is desperately needed during these tumultuous times.

Over the past ten years in the classroom, I have taught students to become aware of social crises, while simultaneously raising awareness of the human potential to create positive efforts to resist the violent tendencies of our culture, and perhaps our species itself. The historical legacy of social change movements goes largely ignored in both our educational systems and mainstream society.

To be sure, there are moments of note, such as the celebration of Martin Luther King's birthday, commemorating the great civil rights leader. But the focus is too often on the charismatic persona rather than on the fact that King today would likely be disappointed, even appalled with the continuing plight of the black community and the even more extreme threat

from the triplets of materialism, militarism and racism

The only hope we have today, as when Dr. King was writing, or when Gandhi walked the long walk, for turning those crises into opportunities, is for a deep shift to take place in our hearts, as well as our collective conscience. We cannot wait for the push from those directly impacted by disasters, or by other damaging social forces, such as prejudice, discrimination and neglect. These social disasters are reaching the doorsteps of all of us whether we see and feel the effects yet or remain in denial for a little longer.

Katrina can be viewed as a *New Species of Trouble*, as Kai Erickson termed such human-made disasters (1994). Corporate and government neglect or outright fraud can be seen as key culprits. Another source that speaks clearly to this moment is *The Politics of Uncertainty*, (1996) in which Peter Marris frames the issues facing the global community. Who has the power to control various contingencies? Those without power to make choices, such as to evacuate New Orleans by driving away, are the most marginalized, thus facing the most extreme uncertainty.

While the analyses noted above offer insights into explaining the social, political and economic processes behind disasters, missing is a vision of what to do next. How can the community be restored? How can people heal from and overcome such devastating trauma, psychologically, as well as being reintegrated into a life with basic services and social supports?

Some potential solutions might be drawn from the realm of restorative and community justice (Zehr, 2002). Crime, conflicts in families, schools, workplaces, and other sites have been resolved through restorative approaches. Long-held religious and political enmities as in Northern Ireland, Palestine and other areas around the world, have ease somewhat through international peace building efforts using restorative principles and practices.

Practice Note

Restorative Justice Defuses Conflicts Surrounding Middle School Riot

by Patrick Wolff

It may come as a surprise that Guam’s western-Pacific tropical paradise is tainted, but student rioting did occur during the Fall semester of 2004 at an over-populated public middle school. Worse yet, the fighting had strong ethnic overtones with Chamorros (“locals”) fighting against the newcomers called Micronesians, most of whom trace their heritage to the Chuuk (formerly “Truk”) Islands.

Inafa’ Maolek (loosely translated “to reconcile” in the indigenous language of Guam) is the name of the non-profit community-based mediation organization asked by school officials to intervene after the student riot. While the Inafa’ Maolek response may not be in sync with all the principles of Restorative Justice, it was a successful intervention nonetheless.

In many respects, Inafa’ Maolek was well suited for the challenge it faced when asked by Benavente Middle School to intervene. Over the prior six years, we had conducted dozens of “Hate Crimes” workshops in Guam’s schools, done one Public Forum on racial-ethnic conflict, and developed a five-tower photo text exhibit on multi-cultural families on Guam that was used as an aide to its diversity presentations.

While the school initially invited Inafa’ Maolek to “mediate the problem,” timing was critical because over 30 students who had been suspended for a period of ten days for their participation in the riot were immediately returning to school. School officials feared that further fisticuffs might arise out of lingering bad feelings from the riot. This did not afford much time for a thorough pre-conference meeting with individual students to prepare them for the conference, so Inafa’ Maolek proposed the following two-day approach:

Day 1

A conflict training resolution workshop, emphasizing diversity education, would be held for each group separately. Near

the end of each such workshop, our facilitators would do small group-level pre-conference meetings.

Day 2

Due to the large number of participants (approximately 50), we would conduct four concurrent Restorative Justice Group Conferences in the four corners of the school library.

We found that the logistics of coordinating the four simultaneous group conferences was our greatest challenge. Inafa’ Maolek developed a bifurcated model whereby one presenter would deliver certain common aspects at the large group level for all four conferences, while most other aspects were done at the separate conference level. It became necessary for me, as Inafa’ Maolek’s Executive Director, to script it out for the Restorative Justice facilitators by sketching a flow chart diagram of the process. Everybody needed to understand how each group conference would integrate into the whole, such that we could pull together some unified results at the end.

Here is an overview of how it worked:

- Inafa’ Maolek met beforehand with the parents so that they would appreciate their role in this RJ conference; and
- Inafa’ Maolek’s Executive Director, as the lead facilitator, did an opening for everybody that covered Restorative Justice goals for our conference, Restorative Justice conference ground rules, and an opening word of prayer

Inafa’ Maolek needed to pull together a team of competent facilitators for the four concurrent Restorative Justice Group Conferences. We performed the following tasks:

- Recruited three adult community mediators from Inafa’ Maolek’s pool of Restorative Justice-trained volunteer mediators;

- Recruited Inafa’ Maolek’s five part-time youthful staffers who regularly conduct peer mediation trainings in our schools island wide (these staffers had trained a group of Benavente Middle School students as peer mediators earlier that fall semester);
- Selected a few peer mediators from Benavente Middle School (this became their first exposure to Restorative Justice, something normally taught only to selected “Advanced Peer Mediators”);
- Involved the vice principal for discipline from the public high school into which this middle school feeds its graduates (this vice principal was trained in Restorative Justice by Inafa’ Maolek and was implementing this program at his school); and
- Included Inafa’ Maolek’s case manager and its Founder/Executive Director.

The composition for each group conference was designed to include equal numbers of student protagonists from each ethnic group, at least one parent and one middle school educator, one peer mediator, and two Restorative Justice-trained Inafa’ Maolek adult facilitators (one youthful facilitator along with one older adult facilitator for each conference).

Group conference seating assignments were carefully planned out beforehand. All four group conferences started at the same time. Sixty minutes was projected for a Phase I (storytelling) conversation in which we encouraged all students to participate in discussion. The lead facilitator then explained Brainstorming to all four groups together. The brainstorming of solutions (e.g., how to make peace between the two groups, how to prevent future violence from occurring, etc.) was started in the separate groups, but culminated in a large group session wherein all ideas were written on a large dry erase board. Each group

Navajo Nation Peacemaking: Living Traditional Justice

review by Russ Immarigeon

Navajo Nation Peacemaking: Living Traditional Justice

edited by Marianne O. Nielsen and James W. Zion

The University of Arizona Press

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Navajo Nation Peacemaking is a collection of a dozen previously published articles and accounts, accompanied by informative introductory, contextual and updated material. The volume's editors -- Marianne O. Nielsen, a professor of criminal justice at Northern Arizona University and James W. Zion, a former solicitor to Navajo courts -- do an excellent job of enabling this collection of articles to clarify the concepts, meanings, and proceedings of Navajo peacemaking, as well as making them accessible to a broad readership.

The articles are divided into four sections: the history of peacemaking, peacemaking concepts and practices, peacemaking analyses and assessments, and conclusions. Nielsen and Zion provide commentary on peacemaking readings, and a comprehensive list of relevant readings that take readers beyond the content of this volume. They also ably introduce each of the four sections.

"Peacemaking," Nielsen and Zion note in the volume's introduction, "is not a court procedure, and the term 'courts' is misleading about the purpose and procedures of peacemaking." From the start, then, they have set Navajo peacemaking apart, not as an isolated phenomenon, but as a specific approach. But this is perhaps more easily seen (and understood) through a "case study." In one instance, Nielsen and Zion report about a young man who was constantly throwing pieces of cinder block at a woman's home. Navajo police are called in. The young man, it seemed, had a history of mental illness, caused by sniffing gasoline some while back. When this condition was recognized, including the importance of regularly taking proper medication, the young man, his mother and other fam-

ily members were able to devise methods of seeing to it that the young man was routinely transported to a clinic for his medication. Instead of jail, this case was resolved by supplementing and reinforcing existing medical treatment.

Nielsen and Zion outline six vital themes that shape this collection:

- *colonialism* (its ideology, assimilationist government policies, and the legal control of indigenous people);
- *context* (history, geography, demographics and socioeconomic factors);
- *legitimacy* (justification of traditional social institutions);
- *effectiveness*;
- *adaptability* (changes as Navajo peacemaking is used in Navajo and non-Navajo settings alike); and
- *process*.

They observe, "The purpose of peacemaking is not to fulfill some abstract notion of justice but to restore harmony so that the participants are returned to good relations. This means finding and dealing with the underlying causes of the dispute. Harmony must be regained not only between the two (or more) individuals intimately involved in the dispute, but also among their families, clans, and the community as a whole. Peacemaking does not end until a plan of action is agreed upon by all participants."

Navajo peacemaking is a result (as well as a reflection) of conflict as well as history. The first "Navajo peacemaking court" occurred in February 1982, although the term "court" has now largely been dropped. At the time, conflict among Navajo framers centered on three philosophies: "a philosophy of commitment to the revival of traditional Navajo; a philosophy opposing traditionalism and advocating modernism, wherein the Navajo Nation courts would have the dignity of state courts; and a philosophy that tradi-

tional processes should be left in Navajo communities."

In this collection, Nielsen and Zion allow us to witness the evolution of Navajo peacemaking. The editors, who are themselves responsible for at least two-thirds of the material in this volume, bring into this discussion the words and thoughts of jurists Thomas Tso and Robert Yazzie, both former chief justices of the Navajo Nation, sociologists Jon'a Meyer and Eric Kenneth Gross, former director of the Navajo Nation peacemaker Division Philmer Bluehouse, and former U.S. Supreme Court Justice Sandra Day O'Connor.

In recent years, violence has permeated restorative justice debates, nationally as well in Navajo territory. Yazzie and Zion, for example, note, "Policymakers become so preoccupied with what to do with individual offenders that they fail to address larger problems. They sometimes forget to look at causes, trends, and the big picture."

Peacemaking, Zion suggests, is a dream. "When the peacemaking rules were adopted in 1982, they were carefully worded to avoid any attempt to define peacemaking or establish how it would operate. That was partly because of ignorance of what it was, but more important, the rules made a policy choice that an unwritten traditional process should remain unwritten. There is also a growing awareness that since the foundations of peacemaking lie in the Navajo language and base values expressed in Navajo philosophy, it is something more than a *method* of dispute resolution – it is a philosophy of life. A lot of what is being written and said about peacemaking today reinforces that, so part of the dream is reviving the thinking and attitudes of peacemaking in daily Navajo life." (emphasis in original)

Navajo Nation Peacemaking can be obtained from *The University of Arizona Press*, 355 S. Euclid Ave., Suite 103, Tucson, AZ 85719, (800) 426-3797, www.uapress.arizona.edu.

Culture as Seedbed of Change

by Jarem Sawatsky

Is peacebuilding good for indigenous communities?

Since the 1970's, a huge growth of the peacebuilding movement has occurred in all its various forms, including restorative justice, conflict resolution, alternative dispute resolution (ADR), and conflict transformation. The rhetoric of peacebuilding sounds good: empowering people to participate in responding to their own conflicts; creating processes of encounter; avoiding the various pitfalls and failures of the western legal tradition; and decreasing violent conflict while at the same time increasing justice relationships.

More and more, these peacebuilding endeavours point towards a kind of kinship of values, vision and practice with indigenous communities and their conceptions of justice. In my home country of Canada, some Aboriginal people speak so strongly of this kinship that they believe restorative justice is interchangeable with Aboriginal justice.

They say, "We have always done restorative justice."

Indeed, restorative justice and conflict resolution praxis have been fruitfully used, internationally, as part of the healing path for cultures and peoples that have experienced not only crime but also genocide, apartheid and other forms of ethnic violence and systemic racism (e.g. in South Africa, Rwanda, and New Zealand).

Yet not all indigenous movements are convinced that these "new" fields are helpful. In Canada, for instance, the Royal Canadian Mounted Police introduced a restorative justice initiative called Community Justice Forums or Family Group Conferences, which are very loosely based on an indigenous Maori initiative in New Zealand. Gloria Lee, an Aboriginal Canadian, called these "yet another form of state control and cultural manipulation." One justice worker from Nagaland said that NGOs and conflict resolution are the "biggest threat to peoples movements."

So, are these new more friendly disciplines of peacebuilding - restorative

justice, ADR, conflict resolution - a help or a hindrance to indigenous movements? Do they help to redefine unjust relationships or do they further entrench them? Ultimately, that is a decision for indigenous communities to decide for themselves.

I am not from an indigenous community but I am a sympathetic "peacebuilder" with some experience working with and listening to indigenous communities. I am deeply concerned that peacebuilding is being co-opted by governments to extend state control. Insofar as peacebuilding becomes a state-control movement, it ceases to help marginalized people redefine unjust relationships. I believe we are in desperate need of redefining this relationship. I am interested in how peoples are enabled to rediscover identity, embrace the beauty of creation and walk humbly together on a healing path. It clearly is a matter of survival.

Peacebuilding in its various forms offers both barriers and opportunities for the (re) discovery of this path. In this series, I am presenting guideposts for "peacebuilding practice that help redefine unjust relationships." I believe these suggested guideposts or litmus tests may be helpful for indigenous communities and for proponents of peacebuilding to consider when monitoring, assessing and, better yet, creating peacebuilding activities. Hopefully this will be of service in discerning appropriate use of peacebuilding by the indigenous communities. This series will be fruitful if it sparks meaningful dialogue and action in communities discerning what are appropriate uses of peacebuilding practice and theory.

Peacebuilding Practice That Redefines Unjust Relationships Must Be Context-Driven, Not Process-Driven

Early in the evolution of conflict resolution, some felt that the mediation process was a universal way of bringing people together to resolve problems. Mediation trainers often said, "It is the process that makes the difference, not the facilitator." Such state-

ments hide the truth that all processes are embedded in cultural understandings. Mediation assumes people will speak directly about issues, that individuals are decision-makers, that it is possible and preferable for a mediator to be neutral, and that power can be and should be balanced. These are all culture-based assumptions that do not fit with the cultural worldviews I have discovered in various indigenous communities

Western adversarial justice systems and foreign policy initiatives tend strongly toward imposing top-down processes of handling disputes. This top-down prescriptive style - the process-driven style - is the way of the oppression. A grassroots, bottom up, elicitive style is more the way of liberation. If peacebuilding is to be of service to indigenous communities, it must come not as a set of processes and techniques but as a principled way of entering into and affirming local ways of knowing and ways of addressing conflict. The processes that arise, if they can be referred to as processes, must arise from local culture and context rather than being imported from outside.

The Canadian police's introduction of the Community Justice Forum (CJF) is a good example of a liberating practice turned on its head. While there are many positive characteristics of CJFs, it is a top-down scripted model of addressing conflict. When peacebuilding is context-driven, scripts, prescribed processes and foreign processes must be discarded to give space to local peace practice. Liberating peacebuilding practice does not start by assuming to know what others need. Rather it works with local people to articulate and address their needs in ways that are meaningful for them.

Process-driven approaches to healing begin by prescribing stages of grief (a preset process). Context-driven approach focuses on working with those in conflict zones in naming their own

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experience, creating their own ways of addressing those harms and, of course, listening to their story.

This is not a call to find a way to “go back to the good old days.” Rather, it is a recognition that the fertile soil out of which comes the seeds of change is already present in the context. Culture is the seedbed of change and dealing with conflict. The oppression experienced by many indigenous communities has been stifling, like a concrete slab on fertile land. In many cases the culture has not been given space to grow and develop so that it can respond to the ever-changing world. Importing foreign ways of responding to conflict further undermines local ways of knowing and brings about disempowerment. When local maize production fails, importing western surplus grain does not help the maize farmers and makes the local children sick because their stomachs cannot process the foreign substance. We must learn to start with the context, the culture, so that it might be fertile and vibrant, so that it might be a seedbed of change.

Peacebuilding Practice That Redefines Unjust Relationships Is Design-Oriented, Not Forum-Oriented

If peacebuilding is context-driven rather than process-driven, it follows that peacebuilding must also be design-oriented rather than forum/process-oriented. In recent years, the Canadian restorative justice movement has become fixated on Community Justice Forums. At a recent Canadian Restorative Justice conference, 90% of training workshops focused on Community Justice Forums. This shows the deep bias towards forum-orientation (“make me an expert in the latest process”).

If peacebuilding practice is to become context-driven, we must shift from being professional experts of process to collaborative facilitators of local justice design. To do this, peacebuilding practitioners must become fluent in relevant local issues and worldviews, not just in resolution skills and processes. If justice is to be experienced in the lives (culture, issues and relation-

ships) of participants, it must be designed together with participants.

The Canadian government is in the process of trying to bring “resolution” to Aboriginal people who were stolen as children from their communities and forced into residential schools to “civilize” them. In these schools, Aboriginal people experienced every kind of abuse. Originally, the government tried to use the courts to settle these cases. Essentially the government was saying, “Sue us, we’ll defend ourselves and let the courts decide what’s fair.” Eventually it was clear this path led nowhere good. Trying to be flexible without actually changing, the government developed various preset alternative dispute resolution processes for purposes of compensation. Healing from residential schools abuse is unlikely when the beginning point is programs or preset processes for determining restitution. That is a forum-orientation. Rather healing is like learning to move within the current of a river, it requires listening, adjusting, changing, and experimenting. It requires an ongoing design-orientation. Practitioners or programs that claim to have the solution or the best process will not be of best service to indigenous peoples. Work with people who are committed to entering the current, exploring change and developing ways of approaching conflicts that satisfy the emerging needs and perspectives of the people involved.

For the various forms of peacebuilding to be helpful to indigenous communities there must be a shift from a process orientation to a context orientation, from a forum orientation to a design orientation. The seedbed of change is already present in the context. Our job, like that of a discerning gardener, is to find ways to return a healthy and sustainable balance to the soil. Transplanting foreign plants won’t do. Overcoming the land with foreign fertilizers won’t do. What is needed is to find ways to sustain and enable the life-giving practices already present in the culture. Your culture is the seedbed of change.

Jarem Sawatsky, who can be reached at 32 Hallgate, Cottingham, East Yorkshire, HU16 4DJ, United Kingdom, is currently a PhD student in the UK researching traditional communities con-

ceptions of healing justice. Previously he served as Co-Coordinator of the Peace and Conflict Transformation Studies Department at the Canadian Mennonite University in Winnipeg, Manitoba. This article was originally published, in slightly different form, as “Suggested Guideposts for the Use of Peace and Conflict Praxis in Indigenous Context,” Morung Express: Morungs for Indigenous Affairs and JustPeace (India), Sunday, September 19, 2005.

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conference then separately selected/analyzed the ideas they liked best and developed those into a written agreement that all youngsters therein signed.

Inafa’ Maolek achieved closure by getting one student volunteer from each such conference to read aloud the respective agreements. Subsequently, the school administration received copies of these agreements with a cover letter (a Restorative Justice Conference Report) emphasizing the ideas that the respective groups shared in common.

Inafa’ Maolek provided a post-conference activity for all the students. These interactive activities were designed to reinforce a sense of harmony by getting these students to participate kinesthetically together.

Using its “Echoes of Heritage” exhibit, students perused the photos/quotes from Guam’s multi-ethnic families, then wrote on a large yellow post-it individual answers to this question: “What does it look like when your group gets along with the other group?” Next, the Inafa’ Maolek Peace Theater coordinator led all the students in drama improvisation activities. As students laughed at themselves, they discovered, much to their surprise, that they share in common with each other all aspects of their basic humanity.

Patrick Wolff, Esq., is Executive Director, Inafa’ Maolek Mediation Center, PO Box CE, Hagatna, Guam 96932, (671) 475-1977, (e-mail) peacemaker@teleguam.net.

Resources

New Resources for the Practice of Restorative Justice

by Russ Immarigeon

International perspectives

In **Victim-Offender Mediation with Youth Offenders in Europe: An Overview and Comparison of 15 Countries** (Springer, 2005, \$179.00), Anna Mestiz and Simona Ghetti, researchers at the Research Institute on Judicial System of the Italian National Research Council, have compiled 17 articles on the use of victim-offender mediation (VOM) with youth offenders in the following nations: Austria, Belgium, England and Wales, Finland, France, Germany, Hungary, Ireland, Italy, Luxembourg, Norway, Poland, Spain Sweden, and The Netherlands. The editors' bookend these articles with introductory remarks and commentary on what has been learned from the use of victim-offender mediation with youth. Each country-specific article generally contains information about the history and origins of victim-offender mediation practice in the country; legal, legislative and organizational features; offense and referral information; aspects of day-to-day practice, including the roles of victims and offenders; and outcome data. Mestiz observes, in her introductory remarks, that these articles cover the diffusion of victim-offender mediation (most start through spontaneous bottom-up processes), norms and practices (VOM usually appears without benefit of particular laws so norms and regulations typical emerge over time), services and coordination (dependent of the network and continuum of services available in the various locations of victim-offender mediation; a strong preference for public service groups, with only Norway relying on volunteer services), and the recruitment and training of mediators (training usually occurs after recruitment, although Luxembourg provides training first). Ghetti's article on "what has been learned" states that VOM practice varies from nation to nation, especially in its relationship with criminal proceedings; specific offenses are not seemingly targeted for VOM intervention; and there is some risk of VOM practices being offender-oriented rather than victim-centered. She concludes, "A natural interpretation of (the similarity of practices across na-

tions) is that restorative practice principles are so deeply rooted in individuals' sense of justice that they emerge in relatively similar fashion across countries and legal traditions." *Copies can be obtained from Springer, 333 Meadowlands Parkway, Secaucus, NJ 07094, (800) SPRINGER.*

Restorative justice and violence against women

Restorative justice is probably most a matter of controversy when it is being advocated for use, or is in fact used, with cases involving domestic and other forms of physical and sexual violence against women. Recently, two stalwart journals have dedicated special issues to the general topic: In the first, the May 2005 issue of **Violence Against Women: An International and Interdisciplinary Journal**, which is usually edited by Claire M. Renzetti, contains five articles on "Feminism, Restorative Justice, and Violence Against Women" in a volume that is guest edited by James Ptacek of Suffolk University, which is located in Boston, Massachusetts. In the second, the February 2006 issue of **Theoretical Criminology: An International Journal**, which is edited by Lynn Chancer and Eugene McLaughlin, contains five articles on "Gender, Race and Restorative Justice" in a volume with guest editors Kimberly J. Cook in North Carolina and Kathleen Daly and Julie Stubbs in Australia.

The articles in **Violence Against Women** focus on victim perspectives, victim advocate perspectives, South Asian cultural perspectives, "safety conferencing," and the integration of insights from feminist theory into restorative justice responses to sexual offending. Judith Lewis Herman of Harvard Medical School interviews 22 victims of violent crime and argues that survivor views do not fit snugly with either retributive or restorative perspectives. Australia-based researchers Sarah Curtis-Fawley and Kathleen Daly find significant support for restorative justice among advocates for victims of gendered violence in two Australian states. On the other hand, Rashmi Goel of the University of

Denver College of Law finds that restorative justice is ill-suited for immigrant South Asian victims of domestic violence. North Carolina researchers Joan Pennell, who pioneered the use of Family Group Conferences in Newfoundland, and Stephanie Francis report the views of domestic violence survivors, staff care providers, and supporters and propose a "safety conferencing" approach that promotes interconnections and safety. And. Lastly, C. Quince Hopkins and Mary P. Koss describe a Pima County, Arizona restorative justice project that addresses current failures to adequately address cases of non-penetration sex offenses and acquaintance sexual offenses.

The articles in **Theoretical Criminology** focus on feminist engagement with restorative justice; race, gender and justice in late modernity; Canadian feminist debates on restorative justice and intimate violence; Navajo peacemaking and domestic violence cases; and indigenous and non-indigenous women's perspectives on restorative justice and domestic and family violence in Australia. Kathleen Daly and Julie Stubbs argue that feminist engagement with restorative justice for sexual, partner, and family violence needs to be broadened. Barbara Hudson, a British probation officer turned academic theorist, discusses the principles of discursiveness, relationalism, and reflectiveness as they relate to restorative justice and other approaches that go the closures and exclusions of "white man's justice." Angela Cameron of the University of Victoria urges a moratorium on the use of restorative justice in Canada with domestic and other intimate violence cases. Donna Coker of the University of Miami posits that restorative justice is useful for domestic violence cases only when five criteria are met (give prior to women's safety over offender rehabilitation, provide victims with material as well as social support, use a coordinated community approach, use approaches that oppose gendered domination as

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For those families that remain intact throughout incarceration, problems often develop upon the offender's return home. There have been changes on both sides and family members have to figure out how they fit into each other's lives (Dallao, 1997). Many times, families do not remain intact during incarceration (Dallao, 1997; Lynch & Sabol, 2001). It is estimated that only 15 percent of married couples survive incarceration and of those 15 percent, only three to five percent survive the first year of release (Dallao, 1997).

Approximately 80 percent of all women and 50 percent of all men in prison have children (Dallao, 1997; Hagan, 1996; Lynch & Sabol, 2001). The length of incarceration positively correlates with the amount of contact between parents and children. Fifty-four percent of those with a year or less to serve report weekly contact, while 45 percent of those serving one to five years report weekly contact, and 39 percent serving five or more years report weekly contact (Lynch & Sabol, 2001). When women are incarcerated, children are often cared for by grandparents or the State steps in and takes custody (Anderson, 1995; Dallao, 1997; Inmate, personal communication, 2003).

Reentry into the community is difficult for offenders as well as their families. Recidivism rates, the rates at which inmates return to prison, reflect the enormity of the task. The 272,111 offenders ending their sentence or parole in 1994 in 15 states accumulated another 744,000 charges within three years of release (Bureau of Justice Statistics, 2002d). Of those released, 46.9 percent were reconvicted (Bureau of Justice Statistics, 2002b). Some states evidence a 60-70 percent recidivism rate (Nevada State prison personnel, personal communication September 13, 2005).

How Mediation Helps

The Neighborhood Justice Center in Las Vegas has responded to these needs with the design and implementation of, FORUM (Families and Offenders Reconciliation Using Mediation), an innovative family mediation program in the

prisons in Southern Nevada. This was done with the belief that family mediation would be helpful in transitioning an inmate to the outside world as well as simultaneously helping the family transition to incorporation of the inmate into the family structure.

Getting into the prisons to even propose the FORUM program was probably the most difficult piece of the whole project. Initially, the program was only offered at the Southern Nevada Women's Correctional Facility, but has expanded to men's facilities as well.

Because the program was voluntary, participants self-selected to be involved in the program. That is, they took the initiative. This self-selection process was necessary to meet mediation criteria that mediation should only be done voluntarily and that participants should not be coerced. However, their self-selection came after being told about the program by someone working with them in the prison, a case manager, a unit manager, or someone on the parole board.

Crimes resulting in incarceration were not considered and frequently not even known to the mediators. We did know that all inmates were confined for felony convictions. Felonies could include anything from murder or other crimes against persons, to property crimes, to drug related crimes.

One of the first components of the study was the orientation of prison staff, including caseworkers and unit workers to the FORUM program. It was the responsibility of prison staff to share the program with inmates and encourage their involvement.

Ten inmates volunteered to participate in the program over the course of one year. Nine were female and one was male. Six of the group were Caucasian and four were African American. Four were between the ages of 21 and 30, four were between 31 and 40, and two were between 41 and 50. Three participants had not graduated from high school nor received a GED. Six had a high school diploma or a General Equivalency Diploma, sometimes earned while incarcerated. All were English speakers and all of those inter-

viewed had children. Two women were pregnant during their initial interview.

Family was a term that was defined by each inmate and family members were identified in the inmate's intake interview. Family included the prisoner's children, people the inmate would be residing with or wished to reside with, other relatives, or even those people the inmate saw as essential to their successful release. These could have potentially included parole officers, members of the faith community, or neighbors, but rarely did.

After inmates are interviewed, those family members identified were contacted. Voluntary intake interviews were scheduled and conducted by staff and volunteers. Family members also self-selected participation in the mediation. Occasionally, family members suggested other family members be involved in the mediation process.

Results

Once interviews were complete, mediations were scheduled at the prison. The impact of the incarceration was discussed as well as what everyone wanted re-entry to look like. Families were challenged to answer the question of what might mess up a release and further challenged to plan for success. Agreements were written and distributed to each participant.

Follow-up meetings were held four to eight weeks after release. Mediators checked in with families to find out if the process was helpful, if their agreements had held, and if they would like further mediation services. Most follow-ups were positive experiences.

In one case, Terri (not her real name), was referred to FORUM. She had served three years on a DUI with serious bodily injury charge. On the surface, it looked like she would have no problems returning home. She had a home and family as well as a job. When asked why she wanted to mediate, she explained that no one in the family would talk about her incarceration. They kept telling her that everything would be fine once she was

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home. She felt that she had changed and wanted to share those changes. She also wanted to talk about everyone's expectations for the future. She mediated with her husband, son, and daughter. Her family also had a chance to talk about how it felt to have her gone, her past behavior, and what they needed from her now. Terri had a chance to deal with the lies that had been told to her young son about where she was and why she was not at home, and his feelings of abandonment. After a tearful few hours, the family had a plan and an agreement.

Inmates have been motivated to participate in FORUM by their own wants and desires, whether that be a residence upon release, involvement with their children, or the hope of positive reports to the parole board. Families were a different matter, and each had its own story. Some were anxious to participate and bring the offender back into their lives; others were difficult to locate, and tough to convince of the benefits of the program. Ten offenders were referred during the pilot period. Half of those ended up completing the mediation process with their families. To date, 40 cases have gone through FORUM. Not all have resulted in mediations for a variety of reasons. Staff and volunteers at the Neighborhood Justice Center continue to work diligently to offer the program known as FORUM.

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Barbara Timmons Strahl, Ph.D., works in community mediation and restorative justice, mediating, designing programs, and training for the Clark County Neighborhood Justice Center, 1600 Pinto Lane, Las Vegas, NV 89106, (702) 455-3898, (e-mail) bts@co.clark.nv.us.

Resources

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well as violence, and abandon the goal of forgiveness in restorative justice processes. Lastly, Heather Nancarrow interviews members of two Australian task forces that reached opposing positions on the use of restorative justice in domestic violence cases.

*For more information about **Violence Against Women and Theoretical Criminology**, contact Sage Publications, Inc., 2455 Teller Rd., Thousand Oaks, CA 91320, (800) 818-7243, (website) www.sagepub.com.*

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Katrina*continued from page 4***Conclusion**

Being a newcomer to the study of Restorative and Community Justice, perhaps the parallels that seem clear to me will be too much of a stretch for practitioners decades-deep in the field. My hope in this exploratory research, however, is to begin a dialogue with others who share a commitment and compassionate sense of justice in order to collectively find some solutions to crises and potential disasters before the next one hits.

Public consciousness about Hurricane Katrina, maintained through the eye of the media, may have faded, but little has faded from the memories of survivors. This disaster was not just an acute momentary trauma, rather it is an ongoing, chronic struggle to survive. The hurricane was simply the most recent onslaught against the poor and people of color of the Gulf region. Certainly the destruction was partly carried out by Mother Nature, but the

roots go deeply into our nation's past, both in the unequal treatment and opportunities afforded to certain groups and in terms of the exploitive treatment of nature itself.

While I have not yet been able to travel down to the Gulf Coast, I continue talking to students and colleagues about the disaster. My research has been very engaging; the spark that was kindled in the immediate aftermath has grown into a flame. A passion for writing that lay dormant for several years has been renewed.

This article serves as a first step in wading back into the murky waters between disciplines--bridging sociological analysis based in multicultural theory with restorative and community justice, especially that inspired by indigenous models. My hope is that the parallels sketched out here will help to create productive dialogue among academics and practitioners in various fields, as well as suggesting potential solutions for those "on the ground."

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C. Holly Denning teaches sociology at the University of Wisconsin -Whitewater, 800 W. Main St., Whitewater, WI 53190, (920) 568-0729, (e-mail) denningc@uww.edu.

**VICTIM OFFENDER MEDIATION ASSOCIATION**

c/o Center for Policy, Planning and Performance
2233 University Ave W, Suite 300
St Paul, MN 55114 USA