The Emergence of Restorative Justice in Ecclesial Practice

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IN THE FOUR-VOLUME COMPILATION OF ESSAYS on restorative justice edited by Carolyn Hoyle—by far the largest (and most expensive) collection to date—Hoyle explains in the introduction that the aim of the first volume is to acquaint "the reader to the early development of restorative thinking and the justifications for this new approach, as well as some of the arguments against restorative aims and processes."[1] One might expect, therefore, some mention of the early theological influences, especially among some North American Mennonites, that gave rise to what David Cayley calls a peacemaking approach to crime and justice.[2] Instead, the origins of restorative justice thinking according to this collection are made to appear as arising predominantly from criminological academics well accustomed to secular modes of reasoning. Similar omissions can be found in other discussions of the early theoretical development of restorative justice, for example, Elmar and Weitekamp's edited book *Restorative Justice: Theoretical Foundations*, and to a lesser extent, Gavrielides and Artinopoulou's edited book *Reconstructing Restorative Justice Philosophy*.[3]

These contributors generally take it for granted that the practice of restorative justice preceded its theory, giving the impression that it was a practice in search of a theory. While the "roots" of this practice are said to be present in every indigenous tradition, stretching back to ancient customs of reparation, in its contemporary form it has been shaped by a diverse group of "enthusiastic practitioners" who treated its theoretical justification as an afterthought, and then only to attract the interest of government. To remedy this problem, several criminologists have sought to provide conceptual categories for explaining the

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[1] Carolyn Hoyle, "General Introduction," in *Restorative Justice, Vol. 1: The Rise of Restorative Justice*, ed. Carolyn Hoyle (London: Routledge, 2010), 3.
[2] See, David Cayley, *The Expanding Prison: The Crisis in Crime and Punishment and the Search for Alternatives* (Toronto: Anansi Press, 1998), 11.
[3] Elmar G. M. and Hans-Jurgen Kerner Weitekamp, ed. *Restorative Justice: Theoretical Foundations* (Devon, U.K.: Willan, 2002); Theo Gavrielides, and Vasso Artinopoulou, ed. *Reconstructing Restorative Justice Philosophy* (Surrey: Ashgate, 2013).

genius behind restorative justice. A proliferation of literature has followed, with restorative justice being scrutinized by theoreticians operating within the frameworks of postmodern theory,[4] political theory,[5] and postcolonial theory,[6] among others. As it has moved into the twenty-first century, restorative justice has become a "deeply contested" concept according to Van Ness and Johnstone, involving considerably different conceptions of what constitutes its essence.[7] Walgrave now warns of the danger of restorative justice becoming vacuous as it fast becomes "a label for many different practices, beliefs, values and even states of mind."[8]

It is not the intention of this article to debate how best to situate restorative justice within the world of theories, but rather to call attention to the ways in which restorative justice, in at least one of its forms, arose out of the Mennonite tradition as an expression of a justice oriented to the goals of *shalom* and reconciliation. It is partly due to the reticence about probing into the early pioneering work of Mennonites and of their peacemaking approach to crime in most of the standard origin stories of restorative justice that a contest over its theoretical justification has followed. And, while this story has briefly been told in parts, none have sought to locate it within its wider ecclesial context. By recognizing how the practices of a living ecclesial tradition were far from incidental to its origins, the church might hopefully take up the challenge of the early pioneers of restorative justice to be a community of restoration *par excellence*.[9]

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[4] G. Pavlich, *Governing Paradoxes of Restorative Justice* (London: Glasshouse Press, 2005); Lode Walgrave, *Restorative Justice, Self-Interest and Responsible Citizenship* (London: Routledge, 2012).

[5] Andrew Woolford, *The Politics of Restorative Justice: A Critical Introduction* (Winnipeg: Fernwood Publishing Co., 2010); David J. Cornwell, *Doing Justice Better: The Politics of Restorative Justice* (Hampshire, U.K.: Waterside Press, 2007).

[6] H. Blagg, "A Just Measure of Shame: Aboriginal Youth and Conferencing in Australia," *British Journal of Criminology* 37, no. 4 (1997); J. Tauri, "Explaining Recent Innovations in New Zealand's Criminal Justice System: Empowering Maori or Biculturalising the State," *Australian & New Zealand Journal of Criminology* 32, no. 2 (1999); M. Findlay, "Decolonising Restoration and Justice: Restoration in Transitional Cultures," *Howard Journal of Criminal Justice* 39, no. 4 (2000).

[7] Gerry Johnstone and Daniel W. Van Ness, "The Meaning of Restorative Justice," in *Handbook of Restorative Justice*, ed. Gerry Johnstone and Daniel W. Van Ness (Devon, UK: Willan, 2007), 5-23.

[8] Walgrave, *Restorative Justice*, 42.

[9] As Zehr writes in the afterword of his seminal work, "I continue to have faith the community of God's people can lead in this [restorative] direction. Certainly we will often fail, as those in the biblical record did. But just as certainly God will forgive and restore us," Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice* (Scottsdale, PA: Herald Press, 1990), 228.

THE KITCHENER EXPERIMENT

On 28 May 1974, two intoxicated teenagers went on a vandalism spree in the small town of Elmira, Ontario, and were charged with 22 counts of willful damage. The "Elmira Case," as it came to be known, attracted significant attention due to its devastating impact on the close-knit community. Several days before the two young men were due to appear in court, a small group of Mennonite Christians held a meeting. Frustrated by the usual punishment paradigm, they were seeking to develop practices in the criminal justice system more in line with their Christian peacemaking tradition. Among their number was Mark Yantzi, a probation officer working in partnership with Mennonite Central Committee (MCC) on exploring community-orientated alternatives. He asked, "Wouldn't it be neat for these offenders to meet the victims?"[10] Knowing the idea was futile, Yantzi dropped the suggestion, only to be challenged by another person present, Dave Worth, who was the coordinator of Voluntary Service workers for MCC in Kitchener. Despite it having no legal precedent, Yantzi and Worth agreed to look into whether such an alternative might be possible.

From this initiative sprung the beginnings of the Victim-Offender-Reconciliation-Project (VORP), which is widely heralded as the beginning of the modern restorative justice movement. While the Elmira Case is frequently described as the "origin story" of the modern movement, it contains three theological features that often go unnoticed. The first relates to why Yantzi and his fellow Mennonites were even located in their respective positions. In keeping with their Anabaptist two-kingdoms theology, Mennonites had traditionally maintained a principled separation from political affairs and legal systems.[11] The co-operative arrangement between MCC and the probation service in Kitchener marked a significant theological shift among Mennonites. This shift heralded a more expansive understanding of Christ's lordship, with the state as much as the church being under the reign of God's justice.[12] Mennonites influenced by this new theology developed a new attentiveness to issues of power and justice in society, and

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[10] John Bender, "Part I: Reconciliation Begins in Canada," *Mennonite Central Committee Peace Section Newsletter* 16, no. 1 (1986): 1.

[11] Dean E. Peachey, "The Kitchener Experiment," in *Mediation and Criminal Justice*, ed. Martin Wright and Burt Galaway (London: SAGE Publications, 1989), 14. The 1963 Mennonite Confession of Faith stated, "As nonresistant Christians we cannot serve in any office which employs the use of force," and in the case of working as part of the criminal justice system it was clear, "In law enforcement the state does not and cannot operate on the nonresistant principles of Christ's kingdom. Therefore, nonresistant Christians cannot undertake any service in the state or in society which would violate the principles of love and holiness as taught by Christ and His inspired apostles," "Mennonite Confession of Faith," in *Adopted by Mennonite General Conference* (Scottdale, PA: Herald Press, 1963), Article 18 and 19.

[12] Dreidger and Kraybill argue that as a consequence of this shift, the agencies of the state came to be viewed in a more theological light as agents of the principalities and

a different understanding of the relationship between the church and the world.

Yantzi's role in the probation service was the result of an MCC initiative in 1968 to pursue what it saw as a "Christian Witness to the State." This involved creating "listening posts" close to sites of governmental power, like the court services.[13] Yantzi was strategically placed to be a witness to the alternative "politics of Jesus." Early drafts of John H. Yoder's *The Politics of Jesus* were appearing as a resource for a generation of Mennonites seeking a biblically informed model of radical political action.[14]

The second feature relates to another theological shift among Mennonites. Not long after Yantzi joined probation, the Mennonite Church adopted the statement *The Way of Peace,* which included a subsection declaring, "The Way of Peace is the Way of Justice."[15] Rather than defining peace as "nonresistance," which was the conventional Mennonite interpretation, this statement combined what Mennonites had traditionally held apart—peace and justice. There was also a growing sensitivity to "structural sins," with the statement calling on Christians to "identify with the oppressed and participate in ministries of love and service in their behalf."[16]

The Director for MCC Ontario, Ray Schlegel, argued that the calling of the church had to do with applying "Christian principles to the areas that affect society's weak, broken and maladjusted. In North America, that brokenness shows up in courtrooms and prisons."[17] Mennonites had a mandate, therefore, to bring the intellectual and practical resources of their peace church tradition to bear on criminal justice practice.[18] For Yantzi, the idea of offenders meeting with their victims encapsulated the desire for a better justice to emerge, a justice pursued in the interests of peace. As Bender's record of this experiment explains, Yantzi thought such an idea would only work if it involved a hands-on approach from a church that held together the twin goals of peace and justice.[19]

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powers that, while arraigned in opposition to Christ's lordship, were potentially redeemable, Leo Dreidger and Donald B. Kraybill, *Mennonite Peacemaking: From Quietism to Activism* (Scottdale, PA: Herald Press, 1994), 120-24.

[13] Dreidger, *Memmonite Peacemaking*, 117-18.

[14] The first edition of *The Politics of Jesus* was published in 1972, John H. Yoder, *The Politics of Jesus* (Grand Rapids: Eerdmans, 1972), 12.

[15] Dreidger, *Mennonite Peacemaking*, 150-51.

[16] Dreidger, *Mennonite Peacemaking,* 150.

[17] Bender, "Part I: Reconciliation Begins in Canada," 2.

[18] The phrase "restorative justice" was not widely used of processes like the Kitchener experiment until the 1980s. As McCold rightly points out that in "the evolution of restorative justice, practice has preceded history," Paul McCold, "The Recent History of Restorative Justice: Mediation, Circles, and Conferencing," in *Restorative Justice*, ed. Carolyn Hoyle, 137.

[19] Bender, "Part I: Reconciliation Begins in Canada," 1-2.

The third little acknowledged feature of the Elmira story relates to what can be called the *telos* of justice, which was here identified as *reconciliation*. Unlike similar alternatives being developed within critical criminology, the Kitchener experiment developed out of an intuitive belief in the power of reconciliation, rather than from a "defined set of objectives."[20] As Yantzi and Worth explained: "We see ourselves as being continually involved in a process of refining our purpose and function. The project was not begun with a definitive plan.... We are learning by our mistakes and successes."[21] As a result, the VORP project came to view reconciliation between victims and offenders as the primary goal. Such a goal was not only unusual, it was also in conflict with the dominant retributive goals of the criminal justice system.[22]

By making reconciliation the primary purpose of VORP, its advocates were interpreting crime in light of a more *relational* and *unified* conception of justice. Justice, in other words, was understood in relation to its proper theological purpose as the righting of distorted relationships. McCold puts it succinctly: "In VORP, reconciliation—the healing of injuries and restoring of right relationship—is the purpose. Direct mediation between victim and offender is the process wherever 'relationships have been broken' by the criminal act."[23]

Such a goal was difficult for others to comprehend, and equally difficult to quantify. Peachey remarks on how, despite the emergence of nearly 20 VORP programs by the early 1980s, there was still no formal evaluation of the program because of the continual refrain, "How do you measure reconciliation?"[24] This resistance to quantify the goal of reconciliation, together with its religious nature, meant the program received a mixed reception from criminal justice professionals. However, by resisting pressures to secularize and institutionalize it, this experiment in reconciliation yielded many fruitful insights into the many relational dimensions of justice.[25]

As well as growing in conceptual depth, VORP also spawned several other initiatives supported by MCC. For example, Mennonite

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[20] See, Peachey, "The Kitchener Experiment," 17. Scandinavian initiatives in mediation were being experimented following the influence of Nils Christie.

[21] Mark Yantzi and Dave Worth, "The Developmental Steps of the Victim/Offender Reconciliation Project," (Kitchener, ON: on file with authors, 1977).

[22] Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice*, 3rd ed. (Scottdale, PA: Herald Press, 2005), 170; Peachey, "The Kitchener Experiment," 17.

[23] McCold, "Recent History of Restorative Justice," 141.

[24] Peachey, "The Kitchener Experiment," 20.

[25] VORP meetings between offenders and victims focus on the facts that victims need to know, the expression of feelings and personal narratives, and any agreements that will help to restore the relationship to rightness, Zehr, *Changing Lenses*, 161-69. This relational focus also affords victims an insight into the person behind the usual offender stereotype.

Conciliation Service was started in 1979 to deal with conflict resolution in the context of social disasters. In 1980, MCC established the Community Mediation Service to deal with neighborhood and interpersonal disputes that could effectively be dealt with outside of the usual legal process. This move to operating outside of the criminal justice system precipitated a number of changes to the early VORP model, particularly with the discontinuation of the co-operative arrangement between MCC and the probation department. When, in 1982, Mark Yantzi went on to initiate a program under MCC for victims of crime, specifically for cases involving sexual offenders, VORP Kitchener established its own operating structure independent of support from MCC.[26] The new organizational name—"Community Justice Initiatives"—reflected a conscious separation from operating under the auspices of criminal justice services, placing more emphasis on community-led justice initiatives.

In his seminal work on restorative justice, *Changing Lenses*, Howard Zehr describes VORP Kitchener as a "demonstration plot." He borrowed this analogy from Clarence Jordan, who had called his racially mixed farm in 1940's segregated South Georgia a "demonstration plot for the kingdom of God."[27] What eventually developed into the Victim-Offender-Reconciliation-Project, and which ended up influencing many other restorative justice initiatives, was birthed as an experiment in enacting God's peaceable kingdom in the midst of the criminal justice system. Zehr would end up playing a critical role in further developing the theology of restorative justice as giving expression to what, in the biblical tradition, is understood by covenantal justice. It is to Zehr's contribution that we now turn.

ELKHART, INDIANA

Around the same time as the VORP initiative was gaining momentum, Zehr began reading John H. Yoder's *Original Revolution* while teaching at Talladega College and felt called to move to Elkhart to be part of a more radical Anabaptist ecclesiology. Within a short space of time, Zehr found himself working at both a halfway house sponsored by the Indiana-Michigan Mennonite Conference and as the Director for Offender Ministries responsible for a newly established VORP project.[28]

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[26] Peachey, "The Kitchener Experiment," 21.

[27] Zehr, *Changing Lenses*, 173.

[28] I am indebted to Jackson Beck, a history graduate at Goshen College, for many of these historical details and recordings from personal interviews. This was written up in his senior thesis project, Jackson Beck, "The Elkhart County Victim Offender Reconciliation Program: A Story of Witness, 1978-1984" (Goshen College, IN, 2013). See also, John Bender, "Part II: Reconciliation Spreads to the U.S.," *Mennonite Central Committee Peace Section Newsletter* 16, no. 1 (1986): 3-5.

The appointment of Zehr reflected wider shifts underway in the Mennonite Church. Zehr was specifically charged with engaging the criminal justice system in a more theologically informed way; the abolitionist position was no longer central.[29] Zehr began his involvement with VORP as a self-professed pessimist, believing that most systems-based alternatives to incarceration eventually get co-opted and end up as a new system of punishment.[30] However, once he saw the tangible transformation that could occur when victims and offenders met face-to-face, he was convinced that VORP not only stood for a radically new way of dealing with offenders, it also pointed to a fundamentally different understanding of justice itself.

Zehr has earned the title "grandfather of restorative justice" due to his visionary leadership and innovative thinking. Soon after taking on the director's role, Zehr led the project through an extensive period of evaluation, helping to place the intuitive insights of practitioners within a clearer theoretical and theological framework. An internal evaluation highlighted two goals for VORP, both of which matched the three features discussed in relation to the Kitchener experiment, as well as the mission mandate of the Mennonite Church. The first goal was to pursue *shalom* through the work of reconciliation. The second was to provide a prophetic witness to the injustices committed by the rulers and authorities.

In the first edition of *Mediating the Victim-Offender Conflict* (1980), Zehr argues that the rationale behind VORP arises out of the realization that the criminal justice process usually fails to address the real needs of victims, offenders, and the community. It also emerges from the belief that a biblical response to crime points away from retribution and punishment. The key to understanding this biblical response is the Old Testament concept of *shalom*, which Zehr defined as "peace combined with justice, harmony, and right relationships."[31] Hebrew justice had an "emphasis on making things right, upon doing justice by preserving or restoring right relationships within the community."[32] The essence of crime is that it upsets *shalom*; it is the wounding of right relationship. Moreover, the Hebrew word for restitution (*shillem*) derives from the same root as *shalom*, indicating that restitution also has the concrete meaning of "making peace, 'giving

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[29] The position of the Mennonite Church had previously been under the guidance of Edgar Epp, a former prison warden turned abolitionist. See his, Edgar Epp, "Why Prisons Fail," *Catalyst* (1982): 15.

[30] Zehr had done his doctorate studies on the criminal justice system in France and Germany during the nineteenth century, Howard Zehr, *Crime and the Development of Modern Society: Patterns of Criminality in Nineteenth Century Germany and Frace* (London: Croom Helm, 1976).

[31] Zehr, *Mediating the Victim-Offender Conflict* (Elkhart, IN.: Mennonite Central Committee, 1980), 18.

[32] Zehr, *Mediating the Victim-Offender Conflict*, 6.

back' in order to restore health to persons and relationships."[33] Justice, in the context of crime, therefore means bringing victims and offenders together with the aim of restoring relationships to rightness.

Zehr was heavily influenced by the theological ferment in the Mennonite world around the connection between peace, nonviolence, and justice. He drew directly on Perry Yoder's *Shalom: The Bible's Word for Salvation, Justice, and Peace*,[34] Ron Kraybill's *Repairing the Breach: Ministering in Community Conflict*,[35] Millard Lind's *Yahweh is a Warrior: The Theology of Warfare in Ancient Israel*,[36] and the extensive work of his friend, John H. Yoder.[37] Perry Yoder argued that the English word "peace" had become narrowly associated with personal opposition to war, which for Mennonites had meant a withdrawal from social responsibility. This needed to be distinguished from the biblical concept of *shalom*, which possesses a far broader and more positive association with the existence of right relationships.[38] According to Yoder, the presence of *shalom* within the community is possible only if justice is properly upheld, both judicially and socially.

What emerged from this ferment was the development of a biblical theology of *shalom*, in which the pursuit of justice as *shalom* was integral to the church's peace witness. The joint statement agreed to by both major Mennonite denominations in 1983, "Justice and the Christian Witness," called for an enlarged "understanding of peace with the dimension of biblical justice."[39] Dreiger and Kraybill show how the *shalom* concept of peacemaking was not only a significant linguistic tool for uniting Mennonites, it also reflected a major paradigm shift in Mennonite consciousness, towards an activist nonviolent witness that took justice seriously.[40] Biblical peacemaking required Mennonites to turn away from their sectarian tendency to withdrawal and begin working as "shalom agents" by promoting a justice in the world focused on restoring relationships.

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[33] Zehr, *Mediating the Victim-Offender Conflict*, 5.

[34] P. B. Yoder, *Shalom: The Bible's Word for Salvation, Justice, and Peace* (Newton, Kans.: Faith and Life Press, 1987).

[35] Ronald S. Kraybill, *Repairing the Breach: Ministering in Community Conflict* (Scottdale, PA: Herald Press, 1980).

[36] Millard C. Lind, *Yahweh Is a Warrior: The Theology of Warfare in Ancient Israel* (Scottdale, PA: Herald Press, 1980).

[37] Further to what has already been mentioned, John H. Yoder, *Nevertheless: A Meditation on the Varieties and Shortcomings of Religious Pacifism* (Scottdale, PA: Herald Press, 1971); *Christian Witness to the State* (Newton, KS: Faith and Life Press, 1964).

[38] Perry B. Yoder, "Toward a Shalom Biblical Theology," *Conrad Grebel Review* 1, no. 3 (1983): 46-47.

[39] "Justice and the Christian Witness: A Summary Statement," adopted by General Conference Mennonite Church and Mennonite Church General Assembly, August 1-7, 1983, (Newton, KS: Faith and Life Press, 1985).

[40] Dreidger, *Mennonite Peacemaking*, 152.

For many Mennonites, the relevance of VORP lay in its ability to provide an alternative to the "tough-on-crime" policies that were producing an exponential rise in incarceration within the United States. In searching for viable alternatives, Zehr invited criminologists, theologians, and other critical commentators to what was called "palavers," a series of dialogues that subsequently formed the original material for the Occasional Paper Series intended to extend the Mennonite Church's imagination in the sphere of criminal justice.[41]

Among those invited were Herman Bianchi, a criminologist at the Free University of Amsterdam, who delivered a paper to Victim Offender Ministries in 1982 entitled, "A Biblical Vision of Justice."[42] Bianchi highlighted the many inadequacies of biblical translation when it came to words like "peace," "justice," "law," and "repentance." Bianchi argued that biblical law ought to be interpreted, not as a list of negative injunctions enforced by the threat of punishment, but rather as "wise indications" for those who follow God. Drawing on Martin Buber's translation of Hebrew Scripture, Bianchi pointed out that biblical law served to describe how people ought to live in light of God's promises. Justifying modern criminal law based on the Hebrew concept of *torah* amounts to a historical and categorical fallacy, Bianchi argued. Likewise, Bianchi observed that the concept of *t'sedeka*, often rendered as righteousness or justice, is not something that is done by applying the rules of law, but is rather a lived commitment to the way of truth. Justice is measured primarily by the fruit it produces— truthfulness—rather than by the Roman measure of following due process.[43]

Zehr would later write that due to this emphasis on procedure over outcome, transfixed in the image of a blindfolded goddess balancing the scales of justice by applying the impartial rule of law, the criminal justice system actually perpetuates inequality and injustice by ignoring the important social and political outcomes of such a system.[44] An "impartial" justice system aimed at preserving order ends up serving the current order of things, the status quo, however unjust it may be.[45] On the other hand, the justice of *t'sedeka* looks to the future, and is not content until justice causes all those it affects to flourish. As an attribute of God, the justice of *t'sedeka* is partial toward addressing those in need, as it seeks their *shalom*. Bianchi's recommendation to Mennonites was that they call the criminal justice system to *t'shuvah*,

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[41] "Palaver" was the name given to the style of open discussions held in early restorative justice meetings.

[42] Herman Bianchi, "A Biblical Vision of Justice," *New Perspectives on Crime and Justice: Occasional Papers*, no. 2 (1984): n.p.

[43] Bianchi, "A Biblical Vision of Justice."

[44] Zehr, *Changing Lenses*, 78ff.

[45] Zehr, *Changing Lenses*, 140.

to repentance—literally, to "stop" and turn away from its destructive ways.[46]

Zehr also sought out the Norwegian academic, Nils Christie, who was invited to Conrad Grebel College in Canada the year after Bianchi's visit. Christie provided much needed scrutiny of the language used for describing what usually transpires in criminal justice. Basic to Christie's argument is that the concept of crime is an abstraction, which oversimplifies complex situational realities, at the same time as creating the need for highly specialized experts to take care of localized conflicts. Christie rejects the basic neo-classicist premise of grading criminal acts according to the evil perpetrated in order that a like evil can be meted out to the criminal. Defining something as a crime so that it can be treated as a commodity, which is then regulated through the infliction of pain, amounts to a moral absurdity.[47]

The idea that punishment is essentially the infliction of intentional pain was particularly influential on Zehr's thinking. Penal law, writes Zehr, should thus be more accurately described as "'pain law'… an elaborate mechanism for administering 'just' doses of pain."[48] Zehr was pushing for society to question the assumption informing the criminal justice system that pain is the antidote to our human conflicts.

Christie proposed that instead of using the abstract category of crime, such events should be defined as *conflicts*. These conflicts, moreover, should be seen as the property of the parties between whom the conflict originated. Christie's aim in defining conflicts as property was to reinvigorate the participation of victims, neighborhoods, and offenders, as agents in their own right. When this happens, a multitude of benefits await: victims are empowered, offenders are given the opportunity to regain responsibility for their actions, neighborhoods once again become sites of political engagement, and society at large has the opportunity to clarify what it considers to be relevant and of value.[49] In addition, Christie postulates that the stereotypes necessary to sustain the abstract category of crime—i.e., a passive victim unable to represent himself or herself and a pitiless criminal resembling a non-human being—will begin to break down in the context of a personal encounter.[50]

While Zehr retained the category of crime, he construed crime as essentially a conflict between persons.[51] Zehr could see that Christian peacemakers offered a more grounded response than Christie's rather

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[46] Bianchi, "A Biblical Vision of Justice."

[47] Christie's views are expounded in Nils Christie, *Limits to Pain* (Oxford: Martin Robertson & Company Ltd., 1982).

[48] Zehr, *Changing Lenses*, 75.

[49] Nils Christie, "Conflicts as Property," *British Journal of Criminology* 17, no. 1 (1977).

[50] Christie, "Conflicts as Property," 8.

[51] Zehr, *Mediating the Victim-Offender Conflict*, 6.

abstract and theoretical ideas. Indeed, Christie admitted that a major challenge to his idea of a neighborhood court was the lack of what he called "healers"—restorative mediators—in society, as well as the dearth of thick communities that could enact such repair.[52] Zehr, however, hoped that the church would be capable of embodying this approach to resolving conflict.

By drawing on these ideas and on his own doctoral work, Zehr began to trace the root problem of the punitive justice system to its underlying concepts of crime and justice. In 1985 he published the article, "Retributive Justice, Restorative Justice," in which he advanced the thesis that the current retributive paradigm of justice ought to give way to a restorative paradigm.[53] He argued that when a conflict is defined as a crime, as opposed to a civil dispute, a different set of assumptions takes over that shapes our perception of what has transpired and what the appropriate response should be. Under the retributive paradigm, when something is criminalized, the action becomes defined as an offence against the state instead of the victim. It is resolved through punishment instead of restitution, responsibility for the crime is defined as guilt instead of as obligation, and the process for dealing with it is imposed rather than negotiated. In short, the "retributive paradigm of justice is one particular way of organizing reality."[54] But it is in perpetual need of reform due to its many inner dysfunctions, and as a way of organizing reality, it has ceased to be viable.[55]

Zehr claimed that prior to the retributive paradigm assuming dominance in the West, there existed a community-based system of justice centered on negotiation and reparation. This system gradually eroded due to the rise of centralized political authorities asserting their power by claiming a legal monopoly over local conflicts.[56] The sovereign supplanted the place of victims, with criminal penalties being prescribed by and owed to the state. Interestingly, Zehr did not advance a

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[52] Christie, "Conflicts as Property," 12. In contrast to lawyers, the "basic model of healers is not one of opposing parties, but one where one party has to be helped in the direction of one generally accepted goal – the preservation or restoration of health," (4).

[53] Zehr, "Retributive Justice, Restorative Justice," *New Perspectives on Crime and Justice: Occasional Papers*, no. 4 (1985): n.p.

[54] Zehr, *Changing Lenses*, 87, cf. 89.

[55] The Enlightenment project attempted to rationalize the retributive paradigm, thought to be scientifically justified by the idea of proportional punishment. The prison institution then became a way of applying proportionality to punishment, and finally the resurgence of just deserts philosophy organized legal structures to deliver retribution in a uniform manner.

[56] Zehr, *Changing Lenses*, 97-125. Zehr admits that this era of community justice was not without the retributive or judicial option as means for resolving disputes, however these options were rarely used and often came at some cost to victims in particular. The shift to a retributive paradigm reached its climax at the end of the seventeenth century, yet even then the existence of civil courts still remained.

modified form of community justice as an antidote to the contemporary problem. Instead, he advocated for an entirely new paradigm, informed explicitly by the biblical understanding of "covenant justice."[57] Zehr's interest was in formulating a way for the church to embody an alternative understanding of justice shaped by its own particular convictions, which he understood as restorative justice.

Focusing almost exclusively on the Old Testament, Zehr argued that the central theme in Scripture is a "theology of restoration." God's vision for humankind is encapsulated in the idea of *shalom*. Covenant justice is primarily about *shalom*, "making things right, finding a settlement… restoration to right relationships."[58] While Israel drew on sources of law and justice from surrounding nations, such as the Hammurabi code, these came to be transformed under the covenantal concept.[59] God, not the king, was seen to be the source of all authority, including law and justice, which were focused on his relationship to Israel as the covenant partner. Covenant justice was concerned to preserve or restore relationships, and even punishment was oriented to this restorative goal.[60]

As an aside, the term "restorative justice" first appeared in the context of criminal justice with Albert Eglash's work on creative restitution during 1958 and 1959. Ann Skelton traces Eglash's use of the term to a 1955 book titled *The Biblical Doctrine of Justice and Law*, which describes this "restorative dimension" as fully disclosed to the church of Jesus Christ:

> Restorative justice alone can do what law as such can never do: it can heal the fundamental wound from which all mankind suffers and which turns the best human justice constantly into injustice, the wound of sin.… Restorative justice, as it is revealed in the Bible, alone has positive power for overcoming sin.[61]

Upon using this term, Zehr recalls Eglash leaving him a message saying that he did not want to be credited with inventing "restorative justice."[62]

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[57] Zehr, "Retributive Justice, Restorative Justice." In his more recent writings Zehr is more reticent about using theological language and thereby refers to his approach to restorative justice as a community-centered approach.

[58] Zehr, "Retributive Justice, Restorative Justice."

[59] Zehr, *Changing Lenses*, 135-36.

[60] Zehr argues that retributive punishment is present within Hebrew Scripture, although it has a limited and secondary function, which is appreciated when viewed through the covenantal context, Zehr, *Changing Lenses*, 142, 46.

[61] H. Schrey, H. Walz., and W. Whitehouse, *The Biblical Doctrine of Justice and Law* (London: SCM Press Ltd, 1955), 183; cited in Daniel W. Van Ness and Karen Heetderks Strong, *Restoring Justice: An Introduction to Restorative Justice*, 4th ed. (New Providence, NJ: Anderson Pub., 2010), 22.

[62] Personal Correspondence, October 2014.

FAITH AND *VORP*

Through Zehr's efforts, the emerging new paradigm of justice became consolidated around a theology of restoration. In the *VORP Organizers Handbook*, Zehr makes it clear that, "our program arises directly from a Christian understanding of crime and the role of reconciliation; it draws directly on Biblical models and principles."[63] For this reason, new VORP programs predominantly emerged among church congregations, and, revealingly, when non-faith based community groups adopted VORP, they would often leave out words like "reconciliation." Yet according to Zehr, the concept of reconciliation "has a number of important implications for program design and operation: the style of mediation, the way we follow up on cases, even how we define a case, are all shaped by that goal."[64] At the time Zehr clearly felt that church-based reconciliation was somehow distinct from more secular community-based mediation models, although the difference was potentially difficult for everyone to grasp.

The growing popularity of victim offender dialogues did, however, lead to the restorative concept being adopted in a more secularized form by other organizations. Paul McCold argues that the "faith-based concepts underlying VORP were secularized by developing training techniques that encompassed both community mediation and VORP and in recognition of VORP's dependence on secular justice for cases."[65] McCold is alluding here to the gradual demise of reconciliation as the core goal of restorative justice, which was largely a result of the victim movement having an increased role in the restorative justice movement. Multiple "humanistic" goals, such as victim satisfaction, offender accountability, and reparation of losses, replaced the single goal of reconciliation.

By the mid-1980s the baton of restorative justice passed from VORP to a more humanistic model of mediation, housed under what was called Victim Offender Mediation (VOM). It was this VOM model that was endorsed by the American Bar Association in 1994, propelling restorative justice into the mainstream. According to Umbreit and Armour, "VOM was similar to VORP but used language to describe the restorative justice process that was secular and closer to conflict resolution or civil dispute resolution rather than faith-based, for example, shalom, atonement, and forgiveness."[66]

Another feature that distinguished VOM from the earlier VORP models was the greater emphasis it placed on the role of the neutral

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[63] Howard Zehr, *The VORP Book: An Organizational and Operations Manual* (Valparaiso, IN: Victim Offender Reconciliation Resource Center, 1984), 5.

[64] Zehr, *The VORP Book*, 6.

[65] McCold, "Recent History of Restorative Justice," 141.

[66] Mark Umbreit and Marilyn P. Armour, *Restorative Justice Dialogue: An Essential Guide for Research and Practice* (New York: Springer Publishing Company, 2010), 10-11.

facilitator, as opposed to faith communities. Coming from a "human-
istic social work" perspective, VOM, according to McCold, will "ex-
pect the facilitator to provide active counseling and place great em-
phasis on the interpersonal skills and training of the facilitator… cre-
ating an 'expert model' approach."[67] By contrast, VORP actively pro-
moted the role of church volunteers, because the "volunteer role gives
the community a renewed participation in the criminal justice system.
VORP is intended as an attempt not only to empower the offender and
the victim, but the entire community as well."[68]

While these developments were to some extent welcomed by Men-
nonites, because they represented a mainstreaming of Christian peace-
making values within the criminal justice system, they also came with
the new challenge of relating the church to the VORP initiative. Ron
Classen, who started the VORP program in Fresno, California, wrote
to Zehr to ask: "Is the faith element and church involvement essential
to the integrity of VORP?"[69] This issue was at the forefront of many
minds during the first annual VORP gathering in 1984. Due to Zehr's
busy schedule, the organizing of the conference fell to the Prisoners
and Communities Together Institute of Justice, a key partner with
VORP since the early eighties. Despite 11 of the 17 VORP programs
being Mennonite sponsored, the formal organizers of the conference
failed to provide any space for reflection on church-related or faith-
related concerns.

These matters were raised instead at a pre-conference gathering
where Zehr articulated his distinction between the retributive and re-
storative paradigms and led a conversation on viewing VORP from an
Anabaptist perspective. Also included was a meditation by Perry
Yoder.[70] It is significant to note that Zehr's widely referenced distinc-
tion between retributive and restorative justice was first delivered to a
small gathering of those who were exploring VORP from an Anabap-
tist position.[71] Disillusionment was nevertheless beginning to grow
among some members of the Mennonite constituency, as they were
forced to rethink their relationship to the VORP model, which by this
time had begun to spread around the world.[72]

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[67] McCold, "Recent History of Restorative Justice," 151.
[68] Mark Chupp, "Reconciliation Procedures and Rationale," in *Mediation and
Criminal Justice*, ed. Martin Wright and Burt Galaway (London: SAGE Publications,
1989), 58.
[69] Cited in Beck, "Victim Offender Reconciliation Program," 35.
[70] Cited in Beck, "Victim Offender Reconciliation Program," 37.
[71] In the Occasional Papers Series no. 4, it is recorded that Zehr delivered his paper
on the day before the 1985 conference, not the previous year's conference. However,
it is clear that this paper was presented at the one-day meeting prior to the conference
proper, organized to explore issues confronting VORP from a faith-perspective.
[72] The VORP model had been exported to the United Kingdom by the early eighties,
cf. McCold, "Recent History of Restorative Justice"; Marian Liebmann, *Restorative
Justice: How It Works* (London: Jessica Kingsley Publishers, 2007), 38ff.

Mark Chupp, who had taken over Zehr's role as Director for Elkhart VORP, acknowledged the growing difficulty facing Christian involvement in VORP. He argued the tension was more a result of resisting the pressure of co-option by the criminal justice system. Mennonites who wanted VORP to retain a strong Christian identity did so because they thought this was the only way to protect one of the primary goals of VORP, which was to model a prophetic and humane alternative to the adversarial system.[73] This concern about co-option, notes Chupp, is not unique to the Christian community; it is faced by any initiative seeking a more community-based alternative to state centered models of justice. Chupp issued a challenge to Mennonites to cease characterizing the tension as a Christian/non-Christian tension, and "affirm that which is of God regardless of its origin and focus less attention on ownership and control of VORP."[74]

While Chupp was right to suggest that Christians ought not to focus on ownership and control, he minimizes the distinctiveness of the faith dimension. Perhaps for pragmatic and conciliatory reasons, his position risks reducing the church to a mere community organization that, for pragmatic reasons, is opposed to state intervention. Such a perspective, however, fails to account for the recognizably Christian narrative informing the work of VORP. For example, the interest in VORP from non-Christian groups was due in no small part to the growing influence of the victims' rights movement. Yet when Zehr asserted that VORP was a victim driven process, he did so not for ideological or political reasons, but because he believed God stands in solidarity with victims, in virtue of the Incarnation. Zehr's reasoning is not informed by any community in general but rather by a very particular community constituted by the claim that God has disclosed himself in Jesus.

In 1984 Zehr wrote a brief pamphlet titled *Who is my Neighbor?*, a resource for churches to support those who have been victims of crime. He points out that Scripture is no less emphatic about the responsibility of "God's people to care for and identify with the oppressed, the powerless, the wounded—those without support and without a voice" than it is in directing us to minister to those who have wronged us.[75] The church of the New Testament has a special duty not only to support victims in their struggle, but also to understand the very nature of victimization. Central to the New Testament proclamation is that

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[73] Mark Chupp, "Faith and VORP," *Mennonite Central Committee Peace Section Newsletter* 16, no. 1 (1986): 6.

[74] Chupp, "Faith and VORP."

[75] Howard Zehr, *Who Is My Neighbor?: Learning to Care for Victims of Crime* (Elkhart, IN: Mennonite Central Committee, 1984), 3.

"God became a victim with us through Christ."[76] Christians must continually hold out the truth that God not only became victorious over all evil, but that God did this by suffering as a victim, and will thereby never abandon victims in their time of greatest need.[77]

In a tone distinctly different from the usual victims' rights message, Zehr speaks openly about the need for victims to experience forgiveness, both of themselves and of their offenders. On the one hand, victims need to be absolved of feelings of blame, whether self-inflicted or based in the belief that God caused their ordeal for some unknown reason.[78] On the other hand, while victims have a need to express strong emotions, including anger, fear, and even revenge, this should not lead them to pursue a course of suffering for their offenders, as this is not "consistent with God's love."[79] Forgiveness will likely be difficult and it may take some time for it to be fully expressed, which is why "real forgiveness is possible only through the work of the Spirit."[80]

This example makes it clear that while Zehr was not at all opposed to groups practicing community mediation for reasons other than the Christian faith, VORP had been clearly established on the Christian narrative. In 1989, Zehr and Classen published *VORP Organizing: A Foundation in the Church*, partly as a means of addressing the faith-and-VORP question. This publication reiterates that while VORP can be appropriately transplanted across a variety of organizations, the church has a special responsibility to implement VORP as an expression of its "mission of reconciliation and its mandate to seek justice."[81] For Zehr, "VORP not only provides an opportunity for the church to be involved in justice-making outside itself, but also offers a concrete model for addressing conflict within."[82] Just as the restorative vision of justice is essential to the church's witness, so is the church essential to the integrity of programs like VORP, which express an alternative to the world's violence.

Given that the central concepts of reconciliation and restoration are not generally valued by the legal system, Zehr argues that the restorative vision is especially prone to the pressures of "diversion and subversion."[83] If it is to survive within the precarious environment of the

[76] Zehr, *Who Is My Neighbor?*, 4.
[77] This is made even clearer when Zehr speaks about what victims need to hear from others, especially his section on the "understanding of God" that Christians need to communicate. Zehr, *Who Is My Neighbor?*, 8.
[78] Zehr, *Who Is My Neighbor?*, 11.
[79] Zehr, *Who Is My Neighbor?*, 9.
[80] Zehr, *Who Is My Neighbor?*, 9
[81] Ron Classen, Howard Zehr and Duane Ruth-Heffelbower, *VORP Organizing: A Foundation in the Church* (Elkhart, IN: MCC U.S., 1989), 3, 6.
[82] Classen, Zehr, and Ruth-Heffelbower, *VORP Organizing*, 5-6.
[83] Classen, Zehr, and Ruth-Heffelbower, *VORP Organizing*, 6.

criminal justice system, it will require "an independent value base and an independent institutional base" from that system, and such a base will need to be genuinely "committed to the values and vision underlying VORP."[84] For Zehr and Classen, "VORP's best hope is a base in the church."[85] The church is not just any community organization; it is the only community that can lay claim to being the bearer of God's reconciliation in Jesus Christ, which means it is obligated to a mission higher than its own financial or operational survival.[86] Restoration is part of this community's *raison d'etre*.[87]

MAINSTREAMING RESTORATIVE JUSTICE

So far we have charted the developing rationale and practice of the restorative justice movement as it emerged in the Mennonite peace church tradition. As Tom Yoder Neufeld puts it,

> The paradigm of Restorative Justice took shape within a womb of biblically informed piety and ethics. It emerged in the attempt to answer a biblically informed and urged set of questions: how can persons committed to peace, reconciliation, and restoration, inject that set of convictions and reflexes into the public arena of responses to crime?[88]

More specifically, restorative justice emerged as a vision for how the church could respond to the present criminal justice system, in light of the witness of Scripture and its own peacemaking practices.

It would be easy to overlook the importance of the church for what transpired in the VORP initiative, focusing instead on the individual actors involved and treating their ideas and practices as disembodied from ecclesial and ethical traditions. Such a reading, however, would be unfaithful to the history of restorative justice as it originated in Christian praxis. The two central goals that animated the work of VORP—the pursuit of *shalom* through the work of reconciliation and the providing of an alternative prophetic witness to the punitive criminal justice system—were in large part the result of changes in ecclesial practice and identity among North American Mennonites. In this

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[84] Classen, Zehr, and Ruth-Heffelbower, *VORP Organizing*, 8.

[85] Classen, Zehr, and Ruth-Heffelbower, *VORP Organizing,* 8. Zehr, *Changing Lenses*, 174.

[86] The following section in this resource by Duane Ruth-Heffelbower details the aspects of program structure, funding sources, and operational delivery that differentiate church-based VORP's from systems-based VORP's, Classen, *VORP Organizing*, 13ff.

[87] Cf. Duane Ruth-Heffelbower, "Toward a Christian Theology of Church and Society as It Relates to Restorative Justice," in *4th Annual Restorative Justice Conference* (Fresno, CA 25 October 1996).

[88] Tom Yoder Neufeld, "'In the Middle:' Biblical Reflections on Restorative Justice," (Winnipeg: MCC Restorative Justice Network, 2003), 2.

sense, restorative justice depended on the existence of a concrete ecclesial witness seeking to practice an understanding of justice in continuity with its own tradition and convictions.

In the afterword of *Changing Lenses,* Zehr admits his proposal of a restorative vision of justice might well be considered utopian by wider society. Writing in 1990, he did not expect restorative justice to amount to anything other than a modest alternative operating at the margins of the criminal justice system. North American penal policy was fast approaching the nadir of an era of "populist punitiveness."[89] Zehr thought it more likely that change would occur through the development of interim strategies and approaches that would seek to embed the "key elements" of the restorative vision in the hope of sensitizing the criminal justice system of its more punitive tendencies.[90] For this to happen,

> the Church is essential to restorative justice. This is very much the Church's business. Christians are called to be ministers of reconciliation, to help create *shalom.* Victim-offender reconciliation is one of the best opportunities available for the Church to carry out this essential mission in our world today.[91]

In the last few pages of *Changing Lenses,* Zehr makes a brief reference to the work of John H. Yoder, who proposed that Jesus' social strategy had been "to create a new society (the church) with new operating principles and assumptions which would operate in the midst of—and serve as an example and challenge to—the old."[92] This new society would exemplify, in its life together and in the giving of its life to the world, a way of dealing with harm and conflict that transcends retributive logic by enacting the healing and restorative justice made possible by Christ. Due to the pervasiveness of the old aeon of retribution, Zehr says this alternative society needs to develop an entirely new "grammar" and a new "physics," reflecting the creation of a new politics of peace. These comments are full of promise, but constitute only two brief paragraphs at the very end of the book.

This vision of God's new society animated the early expression of VORP and many other Christian experiments in restorative justice since. Restorative justice was viewed as the realization of a new way

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[89] An early term coined by Sir Antony Bottoms intended to convey the notion of politicians tapping into and using for their own purposes, what Bottoms believed to be the public's generally punitive stance, Antony Bottoms, 'The Philosophy and Politics of Punishment and Sentencing,' in *The Politics of Sentencing Reform*, ed. C. Clarkson and R. Morgan (Oxford: Claredon Press, 1995), 17-50.
[90] Zehr, *Changing Lenses*, 226.
[91] Zehr, "Restoring Justice," in *God and the Victim: Theological Reflections on Evil, Victimization, Justice, and Forgiveness* (Grand Rapids: Eerdmans, 1999), 147.
[92] Zehr, *Changing Lenses*, 225.

of relating to one another, a new way of being in the world, which arises from a vision of what human community ought to look like in light of the "original revolution." The hope for social change manifest in the restorative vision of justice rests, to a significant degree, on faith that the Spirit of God is continuing to bring into being a human community patterned on Jesus as the justice of God.

The release of *Changing Lenses* in 1990 marked in some sense the beginnings of an international restorative justice *social movement*, and with it the rise of new conceptual challenges.[93] In the ensuing decade, numerous other developments on the edges of the criminal justice system began to coalesce into a concerted move away from reliance on a state-centered, punitive retributive system and towards a more community-centered, informal, and relational approach to justice.[94] While not all were rallying under the banner of restorative justice, Zehr's articulation of a new paradigm, or a new "lens" for viewing crime and justice, resonated deeply with a broad constituency of criminologists, legal professionals, academics, and community agencies seeking reform.

Neufeld rightly notes that, "Restorative Justice has become a concept, a paradigm, an identifiable set of principles and practices which can be argued for in the public arena, indeed, which have garnered the adherence of a diverse community of practitioners far greater than the early pioneers could have imagined."[95] He suspects, however, that such developments have "sometimes outpaced biblical reflection and testing." The rapid ascendency of restorative justice in mainstream public discourse has been accompanied by a notable lack of continued theological engagement with it in the church. By and large, the church has reneged on the role Zehr called it to, with the result that many of the pressures of "institutionalization" and "routinization," along with secularization, have often gone unchallenged from a theological perspective.[96]

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[93] After listing the exponential growth in interest in restorative responses, these authors declare, "Clearly, restorative justice has become *a social movement* that impacts the way we understand and respond to crime and conflict in diverse communities throughout the world," Mark S. Umbreit, Betty Vos, Robert B. Coates, and Elizabeth Lightfoot, "Restorative Justice in the Twenty-First Century: A Social Movement Full of Opportunities and Pitfalls," *Marquette Law Review* 89 (2005/06): 254 (italics mine).

[94] Cf. Walgrave, *Restorative Justice*, 15.

[95] Neufeld, "In the Middle," 1.

[96] Zehr has continually reiterated his concern of the "soul" of restorative justice being co-opted and serving a purpose other than what it was intended, Zehr's article, Howard Zehr, "Justice Paradigm Shift?: Values and Visions in the Reform Process," *Mediation Quarterly* 12, no. 3 (1995).

CONCLUSION

In a symposium marking the twenty-fifth anniversary since the publication of *Changing Lenses*, Christopher Marshall notes that it is the language of repentance, forgiveness, grace, reconciliation, mercy, peace and love, peppered throughout this seminal work, which contributes to the so-called "magic" of restorative justice.[97] Without this theological dimension, restorative justice might have appeared as just another program or procedure for crime control, rather than as a vision to understand justice according to the biblical injunction to pursue healing and reconciliation in human relationships.

Hopefully, the story that has been recounted here makes clear that restorative justice arose not from the speculation of criminologists, nor was it without a conceptual or values-based framework helping guide its practice, but it emerged, rather, from the well-springs of the Christian—and Jewish—tradition and from the living faith of Christians seeking to be peacemakers in the midst of the criminal justice system. The concept of *shalom*, so central to the story of God's dealings with Israel, was particularly important in the early articulation of the restorative paradigm. While the mainstreaming of this peacemaking approach to justice within secular discourse is desirable, not least because it has helped garner broader support to hold the punitive impulses of the dominant system in check. Nevertheless, it should not come at the expense of a diminution of the tradition that gave birth to this restorative vision of justice.

The responsibility for keeping alive this story of Christian praxis rests in great part on the church. While the challenges of continuing to develop restorative justice in a more theological direction are multiple—the contested role of tradition-dependent communities in secular society; the way justice practices are subordinated to political arrangements; the lack of emphasis on the lived reality of people and communities; the disputed legitimacy of religious convictions and language to sustain a specific social vision—the church must nevertheless find ways of contributing to the rapidly evolving field of restorative justice in ways that are congruent with its own practice and reasoning.

Whatever this contribution might look like, it must be based in a recovery of the church's identity as a distinctive eschatological community that bears witness to all the ways in which the justice of God impinges on human life, thus opening up new vistas in the theological exploration of restorative justice. The church, in other words, is called to recognize itself, first of all, as the recipient of God's restorative justice in Jesus Christ, making possible a newly restored relationship that

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[97] Christopher D. Marshall, "A Gracious Legacy: Changing Lenses in New Zealand," *Restorative Justice: An International Journal* 3, no. 3 (2015): 444.

attests to the peace of Christ. In this way, the hopes of the early pioneers of restorative justice might be realized, that the church might embody what it is to be a community of restoration *par excellence.* Ⓜ