

Talk at William Temple on Restorative Justice

Good evening, everyone! The title of my talk is “Restorative Justice – a Biblical solution?”.

Let me start with a quote from Archbishop William Temple:-

Justice, expression of Love

“Justice is the first expression of love. It is not something contrary to love, which love mitigates and softens. It is the first expression of it that must be satisfied, before the other and higher expressions can rightly find their places.”

I am going to divide my talk into four sections:-

1. A General Introduction
2. Justice in the Bible
3. Restorative Justice
4. Restorative Dorset

A General Introduction

My talk here tonight is going to be a first – the first time that any speaker has no idea what he is talking about! Well - that is not strictly true but it was six or seven months ago. Our lovely speaker secretary, Rosemary, has always wanted to know something about restorative justice and, knowing that I had been a solicitor, thought that I could find someone who could talk on the subject. I have a very good friend who lives locally and is an immigration judge in London and I asked him if he knew anyone who could talk on the subject. He said that he might find someone but surely I could do the job. So here I am!

As Christians, we are probably very aware that the Bible is a uniquely important source of guidance for understanding justice. There are hundreds of texts which speak of justice. We might define justice as being “the exercise of legitimate

power to ensure benefits and penalties are distributed fairly and equitably in society so as to meet the rights and enforce the obligations of all parties.” (Richard Snyder – professor of theology at New York Theological Seminary). However, in our human state, we disagree about how the principle of justice works in practice, for example the death penalty or abortion. We realise that justice can mean different things to different people – think of gun-toting Americans. There are problems over who should have power, what kind of power, what do the parties deserve, whose rights take precedence in a clash of legitimate rights. We can declare that something is unfair or unjust and that is a very strong moral condemnation, but our understanding of justice is unavoidably contextual or historical in character. That means that our understanding of actual justice is always going to be limited and partial.

For Christians, justice must have a real objective existence because justice derives from God. But our ability to know God’s universal justice is of course conditioned by the ways of looking at life and the world as learnt from historical and religious traditions. Christians learn about justice by reading about God’s activity in the world, how God reveals him or herself. There are two unique events recorded in the Bible which demonstrate Gods’ justice, first of all the liberation of the Hebrew slaves from Egypt and secondly the coming of Jesus Christ - for New Testament writers, Christ’s arrival is the decisive revelation of God’s justice.

Let us look at justice in the Bible -

Justice in the Bible

We need to remember that the words “justice” and “righteousness” are often used in the Bible with virtually identical meanings – listen to Amos “**But let justice roll down like waters, and righteousness like an ever-flowing stream.**” (Amos 5.24) and in Psalm 72 – “**May [Solomon] judge your people with righteousness and your poor with justice.**”

There are several aspects to Biblical justice which we should look at so as to understand the whole picture.

1. Shalom - a lot of people think that this Jewish word means “peace”. It actually means more than that – we should think of it as both peace and justice because the Bible teaches us that there can be no peace without justice.
2. Covenant – I am referring to the covenant between God and Israel. God’s law was given to Moses and it sets out what is needed for Israel to live in shalom i.e. to experience what the creator God always intended for humankind. So peace and justice will result if Israel remains loyal to God and lives according to God’s law.
3. Torah – unlike modern laws, Biblical law is much more educational. It is addressed not just to the legal specialists but also to the entire community. Torah really means “instruction” – i.e. God’s instruction in righteousness, in justice. – **“The law of the Lord is perfect, reviving the soul”** (Psalm 19:7). Besides the 10 commandments there were lots of other “laws” or guidance – you might like to note that judges had a wide discretion. Although some 20 offences carried the death penalty, it seems that it was rarely invoked; the death penalty was mainly used to show how serious the offence was.
4. Consequences - God is intimately involved in the inter-play between human actions and their consequences. There is a sense that people reap what they have sown by their actions. In Biblical terms, judicial punishments can be seen as God’s wrath where God wants to show that we cannot escape responsibility for the consequences.
5. Atonement – Forgiveness - the sacrifice of animals in the Bible can be said to be a vicarious cleansing, not vicarious punishment. This means that, by laying their hands on the animal, the sinner transfers their sinful identity to this representative. They are forgiven by the animal's’ death. This is not punishment by substitution – the forgiveness is granted because the sinner has shown remorse and taken part in the ritual. The restoration turns away God’s wrath and satisfies God’s justice.

Now all these aspects of justice seem so different from our view of it. Back then, Israel exists in a unique covenant relationship with God, depending on

God's justice and absolute faithfulness. Israel upholds its side of the covenant by living in accordance with God's law, the Torah, the purpose of which is to enable Israel to experience shalom, a state of peace and justice which God always intended for humankind when he created the world. But this shalom is constantly disrupted by Israel's sinful deeds, which then bring their own dire consequences. God's law provides a means of diverting these consequences on to a sin-offering, so that atonement can be made and forgiveness experienced.

Well – all that I have just mentioned are the foundations of Biblical justice. I am now going to try and identify certain traits which give Biblical justice its distinct character.

1. First of all, in the Bible justice is considered to be a personal quality of God – it is in his heart. Listen to Psalm 89 - **Righteousness and justice are the foundation of your throne; steadfast love and faithfulness go before you.** (Psalm 89.14). Then think about how often Jesus talks about justice.
2. Secondly, the Israelites realised that their God, Yahweh, could reach the whole world with his justice – as Psalm 82 says:-
**Rise up, O God, judge the earth;
for all the nations belong to you!**
3. Thirdly, Israel's own experience proved that "Yahweh is a God of Justice". Isaiah says:- **"Therefore the LORD waits to be gracious to you; therefore he will rise up to show mercy to you.
For the LORD is a God of justice;
blessed are all those who wait for him.–** (Isaiah 30.18).
4. Lastly, God gave Israel the law which requires them to act towards each other as God has acted towards them – with justice, mercy and equity.

What about us and the future? .

1. Our knowledge of justice springs from our knowledge of God. We are not only made in the likeness of God but are his representatives – we are agents of God's justice – listen to Micah:
**(The Lord) has told you, O mortal, what is good;
and what does the LORD require of you**

**but to do justice, and to love kindness,
and to walk humbly with your God? (Micah 6:8)**

2. From the words in the Bible we have hope which is rooted in the knowledge of God's justice and faithfulness and so we should confidently expect a better future. We can learn the meaning of justice by observing God's actions in the past and present. But the full revelation of justice is still to be witnessed – that remains an object of our hopes.
3. So how do we view current circumstances? Of course we can be critical because nowhere can we find full or even adequate justice. There are never grounds for complacency and there is always room for improvement. Accordingly, present injustices must never simply be tolerated as inevitable. We are not meant to resign ourselves to the evils of this world – we must work as partners with God for the greater attainment of justice here and now.
4. Justice is always an effort. It doesn't just happen. Justice requires commitment. Like peace it has to be pursued with dedication because there are powerful forces in every society who want to continue to exploit and oppress. So the pursuit of justice must be a primary obligation of the people of God. It is so critical, say the Biblical prophets, that without a commitment to justice all other means of worshipping God are useless. As Amos declares, in the absence of justice, religious performances merely make God feel sick – listen to Amos again:-

I hate, I despise your festivals,

and I take no delight in your solemn assemblies.

Even though you offer me your burnt-offerings and grain-offerings,

I will not accept them;

But let justice roll down like waters,

**and righteousness like an ever-flowing stream. Amos 5; 21-24) -
see also Isaiah 1: 12-17**

5. Of course, it is the duty of the people in authority to be the ones most responsible for the pursuit of justice. Most of the world accepts that securing justice is the first and foremost task of government. Moses instructed tribal leaders to administer “justice and only justice”. (Deut 16: 18-20). And the same applied to kings – **Hear the word of the LORD, O King of Judah sitting on the throne of David: Act with justice and righteousness, and deliver from the hand of the oppressor anyone who has been robbed. And do no wrong or violence to the alien, the orphan, and the widow, nor shed innocent blood in this place.** (Jeremiah 22:2-3).

6. We must now talk about justice being all about relationships – God’s relationship with humanity and the world, and the relationship of human beings to each other and the rest of creation. Justice means doing all that is necessary to create and sustain healthy, constant and life-giving relationships between people. Justice is to be measured by the extent to which people honour their obligation to live in relationships that uphold the equal dignity and rights of the other. This relational character of biblical justice helps to explain why the biblical writers see no tension between justice and mercy. God’s mercy is indeed an expression of God’s justice. – See above for Isaiah 30:18

7. We often think of mercy and justice as opposites. However, we need to understand justice in terms of restoring healthy relationships, with mercy often being the best way to get there. Mercy helps to bring about, rather than to interfere with, justice. Where failure occurs, justice must be seasoned with mercy, or it is not true justice. – **Thus says the LORD of hosts: Render true judgements, show kindness and mercy to one another.** (Zechariah 7:9)

8. Let us not forget that Biblical law requires strict impartiality in criminal cases - Moses said:- **I charged your judges at that time:**

‘Give the members of your community a fair hearing, and judge rightly between one person and another, whether citizen or resident alien. You must not be partial in judging: hear out the small and the great alike; you shall not be intimidated by anyone, for the judgement is God’s. (Deut 1: 16-17) and also Deut 16:19. Leviticus 19:15. Exodus 23:2-3.

9. However, in cases of social justice, Biblical law shows partiality, in particular in cases involving widows, orphans, immigrants and the poor. This is particularly so when Jesus arrives on the scene. He set out his manifesto at the Nazareth synagogue – he defined his mission in terms of bringing justice to the poor and oppressed. If my talk this evening had been on restorative justice with a small ‘r’ and ‘j’, then I would be talking at length about Jesus’ bias to those who were less fortunate in the society of his time. But today I need to press on and look at the start of the Restorative Justice programmes around the world.

Restorative Justice

Before we start looking at specific instances of the use of Restorative Justice, let us remember that impartiality is essential only for establishing guilt or culpability. Once that has been decided, the fundamental goal of the biblical judicial system is to restore what has been damaged by the offending party. And this restoration is needed at several levels – restoration of the victim to wholeness, restoration of the offender to a right standing in the community and

restoration of the wider society to peace and freedom from fear. Punishments are often prescribed in the Bible for particular offences but punishment itself is a means to an end, not an end in itself. Contrary to what many people think today, punishment as such is not what satisfies the demands of justice. Justice is satisfied by repentance, restoration and renewal. Punishment serves as a mechanism for helping to promote such restoration.

So in Biblical times, the typical penalty was restitution to the victim plus compensation; some offences demanded double restitution, or more depending upon the seriousness of the offence and the attitude of the offender. But even in a case where the punishment appeared to hurt the offender more than restore the victim, there was an educational element because it helped the wider community to recognise really bad and anti-social behaviour, it deterred copy-cat crimes and it reinforced the idea that evil deeds invariably carry serious consequences. Overall, it can be said that Biblical justice, both social and criminal, is best described by the word **restoration**.

And that word “restoration” brings us neatly to the nub of tonight’s talk – Restorative Justice in action in the 20th and 21st centuries. As Daniel Van Ness, Executive Director of the Centre for Justice and Reconciliation at Prison Centre International, says – “Restorative Justice brings victims, offenders and the community together with government in repairing injuries caused by crime” . According to Richard Snyder, whom we heard from at the beginning of this talk, Restorative Justice is based on three fundamental assumptions:-

1. Crime is primarily a conflict between individuals, resulting in injuries to victims, communities and the offenders themselves; only secondary is crime the breaking of the law.
2. The overarching aim of the criminal justice process should be to reconcile parties while repairing the injuries caused by crime.
3. The criminal justice process should facilitate active participation by victims, offenders and their communities. It should not be dominated by the government to the exclusion of others.

So in essence, whereas the normal criminal justice system relies on having power, dealing out punishment, and having just the offender and the state in

every case, restorative justice involves restoring relationships, providing healing and involving the victims and the community.

Early forms of restorative justice can be found among the indigenous peoples of Africa and North America. Also before the Norman Conquest, justice was dealt with as between victim and the offender with the community also involved. It was Henry 1 who decreed that, in all future criminal matters, the monarch would be treated as the victim so we have Rex versus Crippen and Regina versus Shipman.

It was in the 1960s and 1970s that the Society of Friends, the Quakers, began to urge that the use of prisons be significantly reduced or even abolished with other responses to crime being substituted. And the Howard League for Penal Reform, a charity founded in 1866, has long been saying that too much money is being spent on a penal system which, they say, does not work, does not make communities safer and fails to reduce offending.

Now it will not surprise you to know that it was a Christian who in 1974, jointly with a probation officer, first re-ignited the worldwide cause of restorative justice. In Berkeley, Ontario, Canada, two young offenders vandalised 22 properties in that small town. A Mennonite prison support worker, Dave Worth, together with the local probation officer, Mark Yantzi asked the judge for permission to arrange for the two offenders to meet with the victims of the vandalism in order to see if reparations could be made. News of the success of the new (yet really centuries old) approach quickly spread.

Since 1974, restorative justice programmes have sprung up all over the world. They are not all identical but their basis is very similar. As you might imagine, the process is popular in cases involving younger offenders who are new to crime and not set in their ways; they are not career criminals who can often be pretty heartless.

One of the most ambitious restorative justice programmes was the Truth and Reconciliation Commission in South Africa with the marvellous Desmond Tutu helping to lead it. It was not perfect and it was criticised but, despite the

insufficient level of compensation, the process has become a beacon of hope in the midst of a vengeful world.

There are now successful programmes around the world, some of the earliest in Sweden, in New Zealand and in the USA. Here in England and Wales, in 2001 the Government spent £7m for a 7 year research programme into restorative justice. The independent evaluation found that in this trial with adult offenders:-

- The majority of victims chose to meet with the offender, when offered by a trained facilitator.
- 85% of the victims who took part were satisfied with the process.
- Restorative Justice reduced the frequency of re-offending, leading to £8 in savings to the criminal justice system for every £1 spent on restorative justice.

This research showed a win-win situation for victims and the state coffers. As a result Restorative Justice programmes have started all over the country with one of the latest being Restorative Dorset.

Restorative Dorset

It was on a bright October day last year when I went to Poole Police station to have a chat with Jackie Willson, a former Police Inspector of 30 years experience. She explained how the system was working in Dorset.

Restorative Dorset covers the whole of Dorset including Bournemouth and Christchurch. It is a fairly new service for which Jackie is responsible and about which she is passionate. The funding is provided by the Police Commissioner. Like others he feels that restorative justice is a fair system which helps save costs in the long term because re-offending can be reduced. Restorative Dorset wants to focus on the victims' viewpoint more than in the past. Victims feel that they are left behind in the process. The victim's Personal Statement (the one that is read out at a trial) is often done too soon or sometimes as an afterthought. Jackie is not convinced that the Judiciary take a great deal of notice of it – it seems like ticking a box. It often happens that the victim would like to talk to

the offender (the harmer) direct so that the offender knows what effect his or her actions has had. The victim wants their say.

The Restorative Justice process can be initiated at the request of the victim, the offender or Probation (if they feel that the offender does want to speak to the victim). Restorative Justice can be used for any crimes however serious – even murder. Nevertheless, there always has to be a risk assessment because there are hardened criminals for whom Restorative Justice means nothing. It can only be used if everyone is happy with it. If one party finds that they do not want the process to continue, then it stops.

The whole process is long and needs a great deal of preparation. The two sides are not brought together before each side has discussed the matter thoroughly with the facilitators. The offender/ the harmer must speak first to give their version of events and to explain what they would like to happen. Interestingly, the victim sometimes just wants to tell the harmer how their life has been damaged or changed by the harmer's actions. This can help them move on. Jackie mentioned a case where a father had been convicted of abusing his daughter. He could not accept that he was in the wrong even though he knew that he had committed a crime but the daughter wanted him to know just how much damage he had done. After that meeting, she felt that she could move on with her life.

It is not expected that any show of forgiveness will be given. The problem with expecting the victim to forgive is that firstly it is usually too early and secondly the victim will suffer a second time if they feel that they are acting immorally if they do not forgive. However, sometimes the harmer will show repentance during the meeting.

There can be no observers at the meeting – just the harmer, the victim and two facilitators. These facilitators can be volunteers. They have been fully trained in the process. They come from a variety of backgrounds from former magistrates to PR consultants. There is no upper age limit; the present age range is mid 30s to 75. There will probably be another recruitment drive in the summer.

There is a sister programme called Restorative Mediation which can be used if no crime has been committed but there is a dispute e.g. a quarrel between neighbours which has been brought to the Police's attention. This can have very

useful results with apologies being given, reparations in the form of financial compensation or planned activity, commitments being given not to behave in a certain way and channels being opened in case of any future conflict.

Read Powerpoint of R D.

Restorative Dorset is not involved with young people. They are dealt with by the Safer Schools and Communities Team. It is vital that young people can be caught early so that their anti-social behaviour can be challenged early on. This team makes use of restorative meetings which can help everyone move on with their lives. A big problem nowadays is social media. One lad can send a vile text to another lad who then sends that to all the others in the class. They then pick on him and he then suffers from bullying and mental stress. In a restorative meeting the young people can be challenged as to why they sent that text or message in the first place - will you say it face-to-face? Jackie talked to me about the Granny test for her daughters. Would you be prepared for your granny to read everything that you have sent from your phone?

And what is my last word on this subject? I have been reading a blog from Yutaka Osakabe, a PhD researcher at Aberdeen University, who is a religious researcher and practitioner of Restorative Justice. He points out that non-Christians tend to say that Christians involved in Restorative Justice too easily mention the need for the victim to forgive the crime. However, the Christian Restorative Justice advocates and practitioners in the UK, whom Yutaka has interviewed, told him that their support for Restorative Justice is not because it promises forgiveness or compassion, but because of its focus on repentance. They believe that the Christian concept of apologising means being accountable for one's wrongdoing and being prepared to turn one's life around.

At the end of the blog, Yutaka states that having religious voices on board helps Restorative Justice to maintain its moral goal.

And I leave the very last word to Archbishop William Temple:-

The Church's Concern for Justice

“I am convinced that one reason why the Church has counted for comparatively little in the public affairs of recent times is that its spokesmen have talked a great deal too much about love and not nearly enough about justice.”

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