

Restorative Justice and the Gandhian Tradition

Gandhi Award Comments

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I am honored to receive this award.¹ However, although my name is on it, I receive it for the field of restorative justice and the promise it holds, and the many people contributing to it, and especially my former students who are involved in the field.

This fall, 2013, is a significant season for me: I'm honored to receive this award - and on India's national holiday celebrating his birthday! It is also my first semester in many years that I have not taught; I'm moving into semi-retirement. Finally, it is the 50th anniversary of the March on Washington, and also my departure, as a 19-year-old sophomore-to-be, for Atlanta to enter Morehouse College, an historically African American college, from which I graduated in 1966. Recently, on the actual day of this anniversary, I had the opportunity to talk with Dr. Vincent Harding who was a significant influence on my decision to go to Morehouse and my resulting commitment to justice.

As a Mennonite, I grew up in a family and tradition of nonviolence and peacemaking, and knew something of Gandhi. But it was at Morehouse, during the civil rights movement, that I engaged more deeply. So my understanding of the Gandhian tradition was mediated through the work of Dr. King, Dr. Harding, my professors and the civil rights activists with whom I came in contact.

After finishing graduate school, I went on to teach at Talladega College, another historically Black college in Alabama, and there became active in criminal justice. All of this is part of the mix that led me into restorative justice.

The occasion of this award has given me the impetus to reflect on the points of resonance between restorative justice and the Gandhian tradition, and to have conversations with some of my friends about this. I especially want to thank my restorative lawyer friend Sujatha Baliga for her help.

¹ Howard Zehr was awarded the Local Peace Award from the Mahatma Gandhi Center for Global Nonviolence at James Madison University in May of 2013. Zehr is considered by many as the "grandfather" and early pioneer of restorative justice. Zehr authored a widely read book, *Changing Lenses: Restorative Justice for Our Times* and helped to establish the Zehr Institute for Restorative Justice at Eastern Mennonite University.

Many, and not only those working in the “peacemaking criminology” tradition, have noted that the criminal justice system is based on, and enforced by, violence or the threat of it. Political scientists often note that the essence of the modern state is the “legitimate monopoly of violence,” and criminal justice is how this monopoly of violence is enacted and expressed: “You’ve harmed us, so we’ll harm you.”

Criminologists Quinney & Wildeman, in *The Problem of Punishment*, put it like this:

From its earliest beginnings in the 18th C Enlightenment, the primary focus of criminology has been on retribution, punishment and vengeance in the cause of maintaining an existing social order.

Historically, the focal concerns of western criminology have not centered on the themes of personal peace and social justice... We have had a reactionary criminology of violence and repression in defense of an existing social order rather than a criminology of peace, justice & liberation.

The historical drift in criminological theory has been that if crime is violence and wrecks violence on our fellows and our social relations, then the effort to understand and control crime must also be violence & repressive ... (p. 40)

With that background, I’ll explore the Gandhian tradition through three terms associated with it.

Ahimsa is often translated “nonviolence,” but shouldn’t be articulated as a negative. It is a term of positive action grounded in a worldview of respect for one another and a vision of how we live together

Likewise, restorative justice is grounded on the value of respect. Restorative justice is not just nonviolent but involves a positive act of caring for one another and our needs and our relationships. I often articulate the underlying values of restorative justice as the three R’s – respect, responsibility, relationships.

In my faith tradition, the vision is expressed in what I call the “*shalom* triangle”: We are called to live in right relationships with each other, the Creator and the Creation. But regardless of faith tradition, by the nature of the human condition, we are all inevitably embedded in a web of relationships in which our actions affect, and are affected by, others. Both Gandhian and restorative justice approaches articulate a vision of respectful relationships in which the dignity and needs of each person are recognized.

Respectful relationships imply a responsibility for our actions and for each other. This goes beyond passive responsibility, as when we accept a judgment that we have done something wrong. Rather, it calls for what John Braithwaite and others have called “active” responsibility to put things right, an approach to justice as promoting a better future. Thus the three R’s – respect, responsibility, relationship - are intertwined, like a triple helix.

Swaraj connotes a kind of self-rule. The Gandhian tradition is a movement for self-governance, personally and socially. Similarly, restorative justice argues that individuals and communities have the potential and

resources to govern themselves and in its practices, encourages both individuals and communities to call upon their best selves. In practice, this is often seen in the power of circle processes that are being used here at James Madison University. Restorative justice is about developing individuals' and communities' ability to be self-governing.

Satyagraha is often translated as "nonviolent resistance" but more accurately is "truth force" or action from truth; again, it is a positive, not a negative. Restorative justice also represents an active movement toward truth-telling and truth-seeking. While the legal system often discourages a holistic telling of the truth, restorative justice encourages it. In fact, restorative justice could be, should be, a nonviolent, truth-seeking challenge to the prison-industrial complex that drives our criminal justice system. I will end with three quotes or paraphrases attributed to Gandhi:

"An eye for eye makes the whole world blind." This is a powerful reminder of the dangers of revenge and retribution.

"Be the change you wish to see." This is often attributed to Gandhi but it isn't clear whether he actually said quite this, however. The closest quote I could find is this:

*"If we could change ourselves, the tendencies in the world would also change. As a man changes his own nature, so does the attitude of the world change towards him. ... We need not wait to see what others do."*²

We see those happening in restorative justice conferences and circles. Restorative justice asks us to be this change – to live it, practice it – as practitioners and also as participants. Some say we are called to approach restorative justice as a way of life.

"That action alone is just which does not harm either party to a dispute."

Here is a direct challenge to the prevailing criminology of violence.

Thank you for the honor but again, let's envision this award not so much as an acknowledgement of me personally, but of the field of restorative justice and the potential it has for transforming lives and communities, a potential that you are glimpsing here at JMU.

² Mohandas K. Gandhi, *The Collected Works of Mahatma Gandhi*, vol. 19 (Delhi: Government of India, Ministry of Information and Broadcasting, Publications Division, 1958), 233; quoted in Erik Erikson, *Gandhi's Truth: On the Origins of Militant Nonviolence* (New York: W. W. Norton, 1969), 342.