



A Human Future

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L'Arche Canada offers this "thought sheet" as a contribution to the public conversation about values and the shaping of the social ethos in which we live. Our perspective comes from two broad sources: (1) from thirty-five years of living together in community as a diverse group of people, differently abled and from various cultural, ethnic and religious backgrounds; and (2) from contemporary thinkers who are open, fresh and responsive to the human spirit and are reflecting deeply on the individual and society today.

The vision and confidence to create a healthy Canadian society lies in the nexus where humanistic thinking and spirituality cross-fertilize. Indeed, today the best spiritual thinking engages contemporary culture with a view to the good of human society and the best humanistic thinking integrates spiritual values. We believe it is possible to live consciously in the gap between an ideal society and everyday reality and to make choices that contribute to the closing of that gap. It is a hopeful view, based on human and spiritual values embodied in daily life.



Danny Graham is a thought leader on justice reform, democratic renewal and citizen engagement. He has long encouraged the practice of restorative justice and he advises international agencies on its institution in developing countries. He is the Chief Negotiator for the Province of Nova Scotia in the Mi'kmaq rights and title initiative. Previously, he served as Nova Scotia Liberal Party leader, was a defence lawyer with Nova Scotia Legal Aid and Pink Murray Graham, and worked for Justice Canada to advance prominent national legislative initiatives. He is the father of three fun-loving boys.

Restorative Justice: An Interview with Danny Graham QC

Our prison systems are growing in size and shrinking in service provision. We offer this issue on restorative justice, potentially a different option for some offenders and victims, because the present system is not working well. Restorative justice, a practice rooted in First Nations wisdom, can provide community-building opportunities that strengthen the fabric of a society. We thank Danny Graham for the interview and Brian MacDonald for accepting the role of guest editor for this issue. Brian is a longtime friend of L'Arche and currently serves on the Boards of L'Arche Daybreak and of Intercordia Canada. — Beth Porter, editor.

A Human Future, is a free e-publication. We invite you to read back issues or to subscribe at www.larche.ca.

Brian MacDonald: Is there a commonly accepted understanding of the term "restorative justice?"

Danny Graham: Restorative justice recognizes crime and conflict as harm to people in relationship, rather than harm to the state. Defining the term can be an elusive task because it is primarily a framework for viewing and dealing with conflict that has occurred. It focuses on addressing the relationships which have been affected. It holds the wrongdoer responsible for his or her actions by providing an opportunity for the parties directly affected by the conflict to identify and address their needs in the aftermath of conflict. It also seeks a resolution that affords healing, repara-

"The allure of our retributive, punitive system is strong..."

Katy Hutchinson



I initiated this face-to-face meeting because I want to speak to Ryan about the enormous impact Bob's death has had on me and my family.... The doors open. Ryan walks in. He looks small and much younger for his twenty-five years than I had expected. It is impossible to imagine he is capable of kicking someone to death. Slowly he lifts his head. Sandy blond hair falls away to reveal the eyes of a frightened child.... He begins to speak, but the sobs break the words apart.

The twenty or so minutes I spent privately with Ryan mean more to me than any courtroom process I can imagine. The fear falls away, to be replaced with profound sadness. What could have gone on in his world to make him capable of something so horrible? I think even Ryan doesn't know the answer to that question. But I do think he realizes he would never work through it in the prison of denial he had created for himself.

Excerpted from *Walking After Midnight: One Woman's Journey through Murder, Justice and Forgiveness*, (Raincoast Books, 2006). In 1997, Katy's husband was murdered. Five years later Ryan was finally charged. Katy has become a strong proponent of restorative justice. She and Ryan now give presentations together about youth culture.



tion and reintegration, and it seeks to prevent further harm.

BMD: How did you become involved in promoting the practice of restorative justice?

DG: My upbringing was in a family and a community that saw the importance of being connected to other people. My father often raised the question of "who is my neighbour," and helped us think through the consequences of our answer. But more specifically, my interest began in the early 1990s when I became a defence lawyer with Legal Aid in Halifax and then practiced as a criminal defence lawyer with a private firm. During that time I struggled to square my values with what was going on inside the criminal justice system. My clients were on a revolving assembly line, victims were getting the shaft, and communities weren't connected to what was going on. I went in search of answers and looked into aboriginal traditions. Restorative justice was being used in aboriginal communities, and in fact, has been used throughout most of human history to deal with conflict within the community. It just seemed to make more sense.

In the early to mid-90s I was ruminating about whether to become an advocate and try to make changes in the criminal justice system – particularly as it applied to youth justice. During that time a very tragic accident happened in Nova Scotia. A young man was driving dangerously when he lost control of the vehicle and killed two sisters who were standing at a stop sign. Alcohol was not involved. It wouldn't have been enough, in the minds of the public, if he were hung from the MacDonald Bridge in Halifax and killed three times over. The response of the community seemed completely out of step with the motives and mindset of the perpetrator. This just made so real for me the disconnect between what people perceive they want in the punitive retributive criminal justice system and what could happen if they asked their questions in a different way.

All this created such angst for me that one night I simply couldn't get any sleep. I knew the attorney general in Nova



Jack Pearpoint



Utu (what we call restorative justice) in its original form, relates to fixing relationships. In the Maori language [language of the aboriginal people of New Zealand], utu means “to bring back into balance.” Within the concept of utu... the entire clan shared the responsibility by saying, “we have done wrong by not teaching this young person well enough, and the entire clan will share in demonstrating ways to restore balance for the well-being of the entire community.” The costs of wrong doing are seen as costs the entire community has to deal with.

The process has a way of helping people move forward rather than being stuck in states of frustration.... Restorative justice must restore people’s self-esteem... If the person still feels broken, that person will struggle throughout their life. To restore them is to help give them a voice. The restoration does not happen to a single person, it happens to everyone. It is a relationship experience that extends to the community as well.

Excerpted from “UTU: Bringing Back the Balance – Notes from a Conversation with Te Ripowai Higgins,” by Jack Pearpoint, in *Restorative Justice: Transforming Society*, eds. Arthur Lockhart, Lynn Zammit et al., Toronto: Inclusion Press, 2005.

Scotia, so next morning I called him and said something like, “Look, the direction of what has been happening in the criminal justice system is something I cannot continue to live with. There is an approach called restorative justice that has not been fully tried. Would you be interested in talking about it?” To his credit, we met that day. He liked the idea, and after several months, I was informed by the provincial justice department that it was willing to take some steps in that direction if I would chair the initiative. From that, and with the partnership and collaboration of many people, we developed in Nova Scotia the first integrated comprehensive restorative justice system. It makes a restorative justice approach available for all young people charged with virtually all types of offences at every level of the criminal justice system – from the pre-charged stage to post-sentencing stage. This was a first in North America.

BMD: Does every youth in Nova Scotia charged with a criminal offense have the choice of going with the regular legal system or choosing a restorative justice approach?

DG: It’s not just their choice. Discretion is used by police officers, crown attorneys, judges, corrections officers, victim services officers. Many people are involved in the decision.

BMD: Is this approach likely to be adopted in the rest of Canada?

DG: People have come from around the world to look at the program that we have developed, and currently there is a multi-million dollar research project examining it as a different model for dealing with criminal behavior.

As for what is happening in Canada, in 2000 I moved to Ottawa to work on introducing what we began with youth justice in Nova Scotia at the federal level. I was two weeks away from having a proposal for a national restorative justice program presented to the federal cabinet in September of 2001 when 9/11 happened. Priorities changed abruptly – so much so that in the same month that I contributed to the drafting of the preamble of the UN’s basic principles on the use of

restorative justice, I also helped write the preamble to Canada's anti-terrorism act.

BMD: Has anyone continued the work being done before 9/11?

DG: There is still work being done, but it seems the effect of 9/11 has been to strengthen the element of fear in our culture and make us focus on being protected from the "bad guys."

BMD: Is the "tough on crime" position that attracts many people today related to this?

DG: The allure of our retributive punitive system is strong, and it has penetrated our psyche deeply. We are living at a time when people are pulling away from each other and we expect that professionals will take care of the messiness of life. When our dishes get dirty we throw them into the dishwasher; when our garbage needs to be dealt with we put it out to the curb and when our children – or adults – get in trouble, we call the professionals and we expect them – whether they are social workers or teachers or doctors or police officers – to fix them. And we complain when they don't fix them. We know that life is much more complicated and more relational than that, but we are still drawn to those who propose the quick-fix.



The L'Arche movement was founded by Jean Vanier, in France in 1964. Today there are 134 communities of L'Arche on five continents, 28 in Canada. In L'Arche, people with developmental disabilities and those who come to assist them share life together.

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FOR YOUR INTEREST

The Community Connection

"The greatest security we can have is a healthy community. The essence of community is brought to life by relationships. Relationships bring meaning into our lives....When we speak about a person who has come into conflict in life, it is impossible to talk about them without referring to the absence of healthy life-affirming relationships. Conflict is about the denigration, the deterioration, and ultimately the neglect of relationships.

Retributive justice increases the devolution and disintegration of community....Retributive justice segregates from community by its explicit efforts to isolate and remove the "guilty" person from that community. Sadly, this isolation/incarceration tends to have the reverse impact on addressing crime.

Extracted from "Five Key Elements of Transformation Within the Philosophy of Restorative Justice" in *Restorative Justice: Transforming Society*, eds. Arthur Lockhart and Lynn Zammit et al., Toronto: Inclusion Press, 2005..

Restorative Justice links:

- Nova Scotia program:
www.gov.ns.ca/just/Divisions/CourtServ/rj/index.asp
- Prison Fellowship International:
www.restorativejustice.org
- Mennonite Central Committee:
www.mcc.org/canada/restorativejustice/index.html
- Triune Arts provides training videos:
www.triune.ca/pages/prod/rcc4.html
- John Howard Society:
www.johnhoward.ca/
- Correctional Services of Canada:
www.csc-scc.gc.ca/text/rj/rj2008/lett-eng.shtml
- Faith community resources:
www.csc-scc.gc.ca/text/prgrm/chap/faith/index-eng.shtml
- Ron Wiebe award:
www.csc-scc.gc.ca/text/rj/ronwiebe/hist-eng.shtml

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