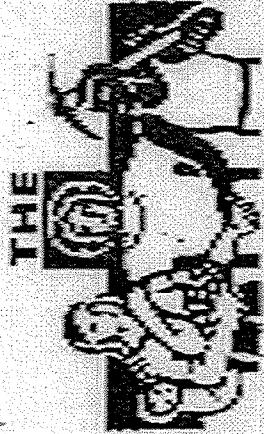


CATHOLIC WORKER



A Justice Based On Healing

By JIM CONSEDINE

A sense of benevolence prevails. Most present appear to be happy, chattering to one another. Some are smiling. Yet they are in court, and the 16-year-old youth standing is appearing before a judge. The judge doesn't mince words. "Well done, Jimmy," he says. "You've achieved all you promised and more. I wish you well. Your record is clean. You can go now. Good luck."

Hardly a typical court scene, you may well say. Yet it is a common sight now in New Zealand where, for the past seven years, a restorative philosophy of justice has been practiced with youth offenders under a marvelous piece of 1989 legislation called "The Children Young Persons and Their Families' Act." It is this process that brought Jimmy to court four months ago for joyriding in stolen cars. After his arrest, a family group conference was convened by a trained mediator. To it were invited the victims, in Jimmy's case the car owners, Jimmy and his family, his teacher and football coach, and a police representative.

In a relaxed but formal setting, the question asked is not how do we punish this offender but how do we repair the damage done by this offense. A different focus. A different starting point. A different philosophy. And a very successful one. In New Zealand, youth re-offending rates for inmates aged 15 to 19 years is down substantially. Much of this drop can be attributed to this new process. In addition, youth prisons have been virtually abolished and family bonding strengthened. Now there is a considerable move towards extending the system to the adult courts through pilot schemes.

Restorative justice is a philosophy that embraces a wide range of human emotions,

including healing, mediation, compassion, forgiveness, mercy and reconciliation, as well as sanction, when appropriate. It enables the best virtues of human interaction to occur. Needless to say, these are also Christian values. It also recognizes a worldview that says we are all interconnected and that what we do, be it for good or evil, has an impact on others. It is the philosophy underpinning most traditional law, including Native American, Polynesian, Aboriginal, Indian, African and Celtic traditions.

As essence of Biblical justice was based on restitution and built on two major pillars, the notion of *shalom*, and the renewal of the Covenant. The seeking of *shalom*, the well-being or common good of the community, underpinned most social interaction. Crime impeded this and violated the Covenant. Restoration of both were imperative if the people were to remain in the right relationship with God. Coupled with these two concepts were three secondary practices—the years of jubilee to attempt to redress debt and keep the common good in focus, places of sanctuary to help further temper community overreaction and allow time for due process, and the special provisions made to help the *anawim*, the poor, especially widows and orphans.

Restorative justice allows for his ancient indigenous tradition to be effective in our time. The process provides the opportunity whereby those affected by criminal behavior—be they victims, offenders, the families involved or the wider community—all need to have a part in resolving the issues which flow from the offense. Victims and offenders assume central roles and the state takes a back seat. The goal is to heal the wounds of every person affected by an offense. No easy task but surely a more

honorable aim than merely focusing on punishing the offender.

At the conference, the offenders first have to admit their guilt, and apologize for their offending. If they claim innocence then they simply proceed through the traditional adversarial system. The full implications of the offense need to be spelled out and confronted as the offender faces the causes of offending. This happens very rarely in the current retributive system, which results in very few every understanding the effect their crimes have had on their victims. Having admitted their guilt and apologized, they then get a chance to explain their behavior, while any friend or parent present can add any background information to fill out their personal circumstances. This is offered not by way of excuse but simply to fill out the picture. Then the victims get a chance to express their feelings about the matter.

Finally, they work toward consensus as to what they will recommend as a suitable package to a judge. In Jimmy's case, because he had a drinking problem he had to attend a program for three months, pay some compensation to the car owners and perform 100 hours of community service, all within a four month period. Having completed that, he starts again with a clean slate.

The victims examine their feelings and can take advantage of any support network which will facilitate healing. Victims are helped to see that their own victimization is only intensified by feelings of retributive action against the offender. The community's role is to create the conditions most favorable to the restoration of both victim and offender. It aids healing by providing mediators, judges and the like. Provided there is cooperation, parties can

reach agreement about repairing the damage which that is possible. Obviously in some cases, like murder or rape, it is not. Yet the more serious the offense, the greater the number of secondary victims there are, like family and friends. These are totally ignored in the current retributive system. Besides whatever reparation is possible, offenders may be required to work in the local community for a set time, do periodic detention or, in far fewer cases than is current, even go to prison.

The Catholic Worker has a long and honorable tradition of opposing the state and condemning all its bureaucratic mechanisms which dehumanize and crush people. These include its prison system. The latter has burgeoned in recent years, making it often a growth industry within a nation. This is clearly true in the United States, where prison numbers have tripled since 1980 and are set to double again by the end of this decade. The United States imprisons at nearly four times the rate of any other industrialized country in the world. At the moment, there are about 1.5 million people incarcerated in US prisons.

Change will not come easy. Part of the reason that we allow so many of our people, especially our young people, to be carted off and put in cages is that there are now so many vested interests being served by the maintenance of a high crime rate and current prison structures. In western countries, these interests are usually identified as the g4reater portions of the police, the prison service, the law fraternity, the tabloid media, the sprawling government justice bureaucracy, and the vast majority of politicians who never really take crime seriously.