



# Center for Restorative Justice & Peacemaking

An International Resource Center in Support of Restorative Justice Dialogue, Research and Training

## **Palestinian Offenders Meet Israeli Victim: *Restorative Family Dialogue in Israel***

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In January of 2002 two Palestinian juveniles committed an armed robbery of an Israeli woman who offered them a ride in the midst of a rainstorm. The woman escaped with minor injuries, yet the emotional experience of this victimization had more the tone of a terrorist act than a common street crime. This article will provide a case study of the application restorative justice and victim offender mediation in the context of the Israeli-Palestinian conflict in the mid-east. Despite the intense multi-generational conflict and violence in the region, this case exemplifies the power of restorative dialogue, accountability, and healing.

### **What is restorative justice?**

Restorative justice (Bazemore & Walgrave, 1999; Bazemore & Umbreit, 1995; Maxwell & Morris, 2001; Umbreit 1994, 2001; Van Ness & Strong, 2002; Wright, 1996; Zehr, 1990, 2002) is an international movement that is gaining support among a growing number of policy makers and practitioners, activists and victim advocates, court and law enforcement officials, who recognize that the system as it now exists isn't working. While our current system is offender-driven, restorative justice shifts the focus to include three client groups: crime victims, offenders, and community members. Rather than viewing the state as the primary victim, placing victims and offenders in passive roles, crime is recognized as actions that harm individuals, families and communities. While denouncing criminal behavior and intolerance, restorative justice approaches seek to treat offenders with respect and reintegrate them safely into the community. It represents a truly different paradigm based upon the following values and practices:

1. The victim is central to the criminal justice process, through increased involvement and services.
2. Offenders are held directly accountable to the person and/or community that they victimized.
3. The entire community is engaged in holding the offender accountable and promoting a healing response to the needs of victims, offenders, and the community as a whole.
4. Emphasis is placed on the offender accountability and making amends whenever possible, rather than the severity of punishment.

5. The community recognizes responsibility for social conditions which contribute to intolerance, hate, and criminal behavior.

The theory of restorative justice provides a blueprint for moving into the 21st century by drawing upon the wisdom of the past. Dating back to 12th century England, following the Norman invasion, a major paradigm shift occurred. William the Conqueror's son, Henry I, issued a decree securing royal jurisdiction over certain offenses (robbery, arson, murder, theft, and other violent crimes) against the King's peace. Prior to this decree crime had always been viewed as conflict between individuals; repairing the damage by making amends directly to the victim was the common standard.

The principles of restorative justice are particularly consistent with those of many indigenous traditions (Pecos-Melton, 1995; Stuart, 1996; Umbreit 1997). The practice of *ho'oponopono* by native Hawaiians (Shook, 1989), family group conferencing by Maori people in Australia (Alder & Wundersitz, 1994), the *sulha* peacemaking process in Arab and Palestinian culture (Jabbour, 1996) and healing circles and other practices among aboriginal and First Nation people in Canada (Griffiths & Belleau, 1993) and Native Americans (LaResche, 1993) all provide beautiful examples of spiritually grounded forms of resolving conflicts through a journey of healing and peacemaking. These principles are consistent with values emphasized by nearly all the world's major religions, as well.

A wide range of restorative justice policies and practices --directed toward offenders, crime victims, and the community-- are expressed through the following: victim support and advocacy services, restitution and community service plans, victim impact panels, community dialogue groups, victim offender mediation or conferencing, peacemaking circles, family group conferencing, community conferences, victim empathy classes for offenders and community policing. Victim offender mediation (also referred to as victim offender reconciliation or victim offender conferencing or victim offender dialogue) is currently the oldest, most broadly used and researched expression of restorative justice in the world. More than 50 empirical studies (Umbreit, Coates, & Vos, 2002; Umbreit 2001; Latamer, Dowden & Muike 2001; Nugent et. al., 2003) in North America and Europe have documented its success over the past two decades in reducing recidivism, increasing victim satisfaction, and increasing offender accountability through payment of restitution. A growing number of studies of family group conferencing are occurring. Little empirical data is available, however, on most other restorative justice policies and practices, although a growing number of studies are getting under way.

### **What is Restorative Justice Dialogue?**

The purpose of restorative justice dialogue is to provide a safe place for the people most affected by a specific criminal act to enter into a direct dialogue with each other about the full impact of the crime on their lives. This allows them to address any lingering questions, and to develop a plan for responding to the harm caused to the greatest extent possible. Participants may include the victim, the offender, family members of each, and other support persons or community members. The four most specific examples (Bazemore & Umbreit, 1995; Coates et.al., 2000) of restorative justice dialogue, in the order of their years of experience and frequency of use, include the following: victim offender mediation; family group conferencing, peacemaking circles; and community accountability boards before which offenders appear. Key elements central to victim-sensitive restorative justice dialogue are:

- 1) All of those directly affected by the crime are encouraged to participate.
- 2) The victim and offender choose which, if any, family members or support persons are present.
- 3) Participation in the dialogue is voluntary for all parties.
- 4) The process of restorative justice dialogue is adapted to the expressed needs of the victim and offender.
- 5) Extra deference is shown toward the victim, while still treating the offender respectfully.

- 6) All of the primary parties are thoroughly prepared through in-person meetings prior to a joint conference.

The process of allowing interested victims of crime to meet with the offender in the presence of a trained mediator/facilitator has been found to have many positive impacts. Victims are able to let the offender know how the crime affected their lives, to receive answers to any lingering questions they may have, and to be directly involved in the process of holding the offender accountable. Typically, victims also take part in drawing up a plan for the offender to restore losses and repair the harm. Offenders learn of the human consequences of their criminal behavior—that victims are people, not just objects or targets—and they are offered an opportunity to take responsibility for their actions through some form of making things right with the victim. Family members and other support people of the victim and offender have the opportunity to learn more about what actually happened, to express the impact of the crime on their lives and to assist with the process of holding the offender accountable and helping the victim. Interested community members can be trained to serve as volunteer mediators and facilitators.

Thousands of cases of restorative justice dialogue are conducted annually in more than 1,500 communities throughout the world, with the largest number of programs in North America and Europe. More than 50 studies (Umbreit, 2001; Latimer, Dowden & Muise 2001) of victim offender mediation, in particular, have consistently found high levels of victim and offender satisfaction with the process and outcome of meeting each other, particularly when compared to victims and offenders who go through the normal court process. After meeting the person they harmed, young offenders are significantly more likely to successfully complete the restitution agreement (Latimer, Dowden & Muise 2001), victims report less fear (Umbreit 1994), and offenders are significantly less likely to commit additional crimes (Nugent, et al.). Studies (Daly, Fercello, Maxwell & Morris) examining the impact of family group conferences in the justice systems of New Zealand, Australia, and the United States, most often obtain similar findings related to client satisfaction with the conferencing process and outcome. Although studies are being conducted, little data is available as of yet for other, newer forms of restorative justice conferencing, such as peacemaking/sentencing circles and reparative boards.

## **Case Study**

The case to be described involved two young male Palestinian offenders, Mohammed (15 ½ years old) and Sami (14 ½ years old) who were charged with attempted robbery and conspiracy to committing a felony. The victim, Rachel, was a young Israeli mother and the driver of the car.

### **The crime**

In January 2002, Rachel left her house one afternoon to go to a nearby village to pick up her infant son at his day care center. It was a cold, rainy winter day. In the course of her trip, she slowed down to turn safely to the access road of the neighboring community. Suddenly, Mohammed, one of the youths, approached her car and signaled her to stop. He asked her to take him and his friend with her to the next village (which was the same place she was traveling to). Rachel, feeling pity for the boys standing in the cold rain without proper attire, accepted their request and allowed them to get into the back seat of the car. Rachel continued driving, but as she glanced at them through the rearview mirror, she saw that they each had pulled out a knife. Mohammed held his knife against her throat. Rachel felt the touch of the cold metal of the blade, a feeling that continues to haunt her. She felt that she was in mortal danger and that she was experiencing a terrorist attack. Rachel asked the boys through her panic, “What is it that you want? What’s going on!” Mohammed spoke to her in a threatening tone of voice telling her to pull over to the shoulder and stop the car. She was in a state of shock but continued driving until she saw a car approaching from the opposite direction. When the car came closer, she signaled it as if she was in distress. While all this was happening, she was driving with one hand on the steering wheel trying to drive straight and the other hand grasped Mohammed’s hand that held the knife on her throat. Suddenly, Rachel stopped the car, loosened her grip on Mohammed’s hand, threw off her seat belt, and jumped from the car in order to save her life.

The boys also jumped out of the car as it began to roll down an embankment. When Rachel saw the boys escaping, she used her body to try to stop the car from rolling down but without success. Rachel was in a state of shock, and her body was trembling. The driver of the approaching car was someone that she knew from the local village. Once the other driver knew that the police were on their way, he picked up her child from the daycare center, which was closing, and brought her infant son to her.

When Rachel was reunited with her infant son, she tried to tap into her inner strength and regain control in order not to feel the terror that she had just experienced. Rachel was terribly upset by the fact that she had taken these boys in her car and that they had wanted to hurt and did in fact hurt her.

The major question that bothered her was what would have happened to her children if the outcome had been more serious. She put herself in danger and also her family in danger. She even was afraid of the consequences to the boys and their families had she lost control of the car. She thought of all the pain, the sorrow, and the loss for everyone.

After a long wait at the site of the event with her son and the police, Rachel returned home. Her life had changed. The lives of Mohammed and Sami and their families changed, as well. Mohammed and Sami were interrogated and detained in a juvenile facility for 15 days. Afterwards, they returned to their houses and were under partial house arrest enabling them only to attend school. A charge was brought against them for attempted robbery and conspiracy to committing a felony.

### **Injuries Suffered by the Participants**

The crime filled the victim's life with feelings of terror and death. The deep feelings of distress accompanied her throughout the last year. At the time of the crime, her husband was overseas and she chose not to inform him but to cope with the difficult event by herself. She found it difficult to function at home, and her three children also showed signs of distress.

The victim's auto insurance company refused to recognize the damage to her car because they claimed that Rachel abandoned her car by her own free will. Rachel was without a car for 10 days, a fact that made her life even more difficult for someone who lives in a rural community.

Since the event, she avoids passing through Arab villages. She has left her job and other projects that deal with the Arab community. And relations with Arab friends became strained due to the trauma she experienced. Every time she would hear Arabic she would feel a chill in her body and feel as if she was reliving the trauma. Rachel felt unpleasant toward the Arab friends of their family and knew that they weren't guilty but her emotions overwhelmed her. Rachel was eligible and received counseling by a social worker of the social services department as a result of the event.

The lives of the boys and their families also changed since the event. The boys were arrested, interrogated and detained for 15 days by the police. For them this was also a difficult experience. This was the first time that they had ever been interrogated and arrested. The separation from their families during detention, the anger of their families against them and their crime increased their despair. Since then, the boys have been released and are on house arrest. The boys described the suffering that they experienced; the attitude of their families, relatives, parents and brothers changed toward them. At school, their acts were condemned and the attitude of their friends toward them also changed. The boys left their school and enrolled in a different school.

Mohammed's father responded to his son's actions in a very severe manner. He had a heart attack after hearing the news of what his son had done, was hospitalized and needs to continue taking medication. The father felt ashamed about the powerful impact of what his son had done. He wanted to correct the situation and contact the victim but her refusal meant that he would continue to suffer without a way to resolve the conflict.

Sami's father also described the terrible injury to the honor of the family. The father was immensely embarrassed by his son's actions. He raised 13 children, and his son's crime hurt his good name and the name of the family.

### **The Restorative Process**

The boys and their families expressed a strong desire and willingness to correct the damage that they had done and meet with the victim. They tried to contact her around the time of the crime, and in different ways, they tried to convey their message of "sulha" (to resolve the conflict) as is customary in the Arabic culture. Rachel expressed her absolute reluctance toward any contact with the boys and their families because of the difficult emotional state she was in and the trauma of the crime.

The juvenile probation officer for the boys consulted with the Restorative Justice unit of the Juvenile Probation Services in order to check out the possibility of mediation between the different participants involved. He considered that face-to-face interactions between the boys and the victim might offer an opportunity for a direct and respectful dialogue with her, to restore relations and the damage caused to her, and to right a wrong.

In a separate meeting with the boys and their families, the mediator perceived their regret and their true desire toward reconciliation. The parents condemned their children's behavior and also expressed their heavy burden as parents since the crime. The parents accepted responsibility for the acts of their children and it was apparent that the boys were extremely embarrassed in front of their parents for the actions they committed.

In a phone conversation with the victim, she described to the mediator her emotional state and her many dilemmas. At the time, the victim was unwilling to participate in mediation, so we decided to respect her wishes and to operate in the spirit of mediation circles, which addressed the needs of the affected communities. The mediator contacted representatives of the communities-- the Jewish community and the Arab community. In meetings with representatives from the educational and welfare systems, including the mayor of the Arab village, we began to put together ideas in response to the crime and in an effort to reduce the recurrence of similar violent crimes. During the mediation process, other political, economic, and budgetary problems also had to be dealt with.

While we were in the midst of developing plans for the community, the victim renewed her contact with the mediator and requested to reevaluate her participation in the mediation process. In private meetings with Rachel, she expressed her fears and concerns as she learned about our program. Rachel decided to go ahead with the restorative process of victim offender mediation. A total of 6 or more preparatory meetings were conducted separately with the victim, the offenders, and their families.

On January 1, 2003, all the participants met together for a mediation session. The participants were Rachel, her husband, her 11-year-old son, her brother, and her social worker; Mohammed, his father and his mother; Sami, his father and his brother; the juvenile probation officer for the case; and the case mediator. The participants came on time with the exception of the one of the offender's families. The continued delay added to the stress and tension and anger. When the mediation circle finally began, the atmosphere was filled with tension and suspicion. For the record, the mediator noted the late arrival of one of the families. She opened the session with the mediator's statement. The participants voluntarily agreed to participate in the mediation process. The mediator related the crime in context to the political climate following the October 2000 "Intifada" and praised the participants for their decision to participate in mediation. Rachel, the victim, retold the events that she experienced. The boys and their parents listened carefully to her words.

The boys told about their involvement and accepted responsibility. Mohammed explained the idea behind the act he had committed from watching a movie with Sami. Mohammed told that he had no real intention of physically hurting Rachel. He wanted money. He expressed sorrow and deep regret for his deeds and explained that he didn't consider the difficult consequences of his actions. And when he heard the words of the victim Rachel, he understood the serious implications of his actions.

Sami told about the event and said that he didn't mean to harm Rachel. He said that he felt a lot of fear when he heard Rachel retell her experience. Sami expressed deep regret and asked for forgiveness from the victim and her family.

The parents of the boys spoke about the painful feelings they had and expressed empathy for the suffering of the victim and her family. They also felt terrible suffering and expressed it.

The atmosphere during the course of the mediation began to warm up. The two and a half hour mediation process allowed the parties to understand, to listen, to speak, and to express their feelings, thoughts and desires. The atmosphere allowed the parties to speak directly about the injuries to parent-child relationships, education, and neighborly relations between Jews and Arabs.

At the beginning of the process, Rachel and her family expressed feelings of anger, rage, and frustration. During the process Rachel and her family expressed understanding and compassion toward the boys and their families even a will to affect their lives in a positive way. Rachel and her husband spoke about the boys as if they were their own children. Rachel's 11-year-old son looked directly into the eyes of Mohammed and Sami and told them that he had hurt his mothering a bad way. He then said that he could forgive them but he would never forget how their behavior affected his mother. Her brother pointed out the paradoxical nature of the situation in that it was due to her kindness and wanting to help the boys with a ride that resulted in the crime.

### **A summary of the impact of the mediation process**

For Rachel: The mediation session gave her an opportunity to re-establish control and self-confidence that had been hurt by the crime. She was able to find meaning in the events and to develop empathy for the boys. The session helped her release herself from blame and provided a sense of normalcy for the reactions and suffering she experienced. Rachel's retelling of the story allowed her to vent her feelings of anger and fear and this was actually part of the process of healing. The mediation process fulfilled her need to be in a safe place, emotionally and physically without feeling judgmental or guilty.

For the boys and their families: This meeting fulfilled the need to live in a society without social and cultural injustice, to distance the boys from the criminal subculture, and to reintegrate them into the community by renewing the trust in their place in society. The boys were given an opportunity to take responsibility in an active way towards the victim and towards Rachel's community. Rachel acknowledged that the boys had also suffered, and they understood that their behavior had hurt her as well as her family and community. The boys and their families expressed willingness to do all they could to help heal the wounds their actions had caused and lessen possible damage in the future.

The meeting ended with a settlement written by the participants, which was later accepted by the juvenile court in lieu of a conviction. At the end of the mediation session, which lasted 3 ½ hours, all the participants expressed feelings of satisfaction and relief that the process gave them allowing them to bridge the conflict, hurt feelings, and thoughts that disturbed them.

### **Conclusion**

The impacts of the restorative justice process of victim offender mediation upon the participants of the case presented in this article are consistent with research that has emerged from Canada, the United States, Europe, and South Africa over the past two decades. This case provides a clear example of the ability of victim offender mediation and dialogue to foster accountability and healing between individuals from diverse cultural and religious communities, and in the context of prolonged severe conflict and violence between Israeli and Palestinian in the mid-east. The intense experience of Rachel, Mohammed, Sami, and their families, even though expressed on a micro level, bodes well for future relations between Israelis and Palestinians as they rebuild their societies following a hoped for negotiated two-state peace

agreement that has yet to materialize. The restorative dialogue experience of these participants has the potential of being offered on a far wider basis and as a bridge toward greater understanding and tolerance among all diverse populations in the region.

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The program of victim offender mediation in Israel was founded in 1992 in Beer-Sheva by Ms. Rachel Sharvit, National Director of Juvenile Probation Services, and Ms. Sarai Grabli, head of the Restorative Justice unit for the southern region of Israel. We wish to thank Ms. Sharvit who had the vision and who introduced the concept of restorative justice in Israel to the juvenile probation office.

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