

University of St. Thomas Law Journal

Volume 17
Issue 1 *Restorative Justice, Law, and Healing*
Symposium

Article 1

November 2020

Restorative Justice, Law, and Healing

Henry J. Shea
hjshea@stthomas.edu

Follow this and additional works at: <https://ir.stthomas.edu/ustlj>



Part of the [Dispute Resolution and Arbitration Commons](#), [Law and Race Commons](#), [Law and Society Commons](#), [Legal Education Commons](#), [Legal Profession Commons](#), [Legal Remedies Commons](#), and the [Other Law Commons](#)

Recommended Citation

Henry J. Shea, *Restorative Justice, Law, and Healing*, 17 U. ST. THOMAS L.J. 1 (2020).
Available at: <https://ir.stthomas.edu/ustlj/vol17/iss1/1>

This Foreword is brought to you for free and open access by UST Research Online and the University of St. Thomas Law Journal. For more information, please contact lawjournal@stthomas.edu.

FOREWORD

RESTORATIVE JUSTICE, LAW, AND HEALING

HENRY J. SHEA*

Restorative justice, which is rooted in seeking healing and accountability from harm, has not been well recognized or widely practiced for much of this nation's existence. But it has increasingly received growing attention in recent years from many persons and organizations. These include those seeking to reform our criminal justice system, heal the scourge of clergy sexual abuse, and address racial injustice or inequality.

For the past two years, I have co-taught a Crime, Punishment, and Restorative Justice course at the University of St. Thomas (UST) School of Law with Father Daniel Griffith, a Catholic priest and lawyer who also serves as the liaison for restorative justice and healing for the Archdiocese of St. Paul and Minneapolis. In the summer of 2019, Father Griffith and Nathaniel Fouch, one of our students and the *University of St. Thomas Law Journal's* symposium editor, envisioned the need and opportunity to host a symposium on restorative justice. They hoped that this gathering would break new ground in presenting key developments in the use of restorative justice and better inform the public and academia about restorative justice's amazing possibilities to bring healing from harm.

The resulting symposium and this publication produced by the UST *Law Journal* offer a new and expanded voice to the discussion on restorative justice's application throughout numerous aspects of society in venues ranging from schools to religious institutions and from our streets to our prisons. In reality, restorative justice can be practiced almost everywhere—wherever there have been unaddressed harms and inadequate remedies. The need for this growing discussion on restorative justice has only become more apparent since the October 25, 2019, symposium, with the long-ignored and festering racial injustices and inequalities that have finally been recognized as a result of the police killings of George Floyd and too many other unarmed Black persons. We desperately require the avenues that restorative justice can provide to begin to listen and learn how persons of

* Henry (Hank) J. Shea is a Senior Distinguished Fellow at the University of St. Thomas School of Law and a Fellow at its Holloran Center for Ethical Leadership in the Professions (www.stthomas.edu/hollorancenter). He can be reached at hjshea@stthomas.edu.

color and their communities have suffered harm and continue to suffer it, to identify those harms, and to then act together to seek understanding, healing, and restoration.

In her keynote address, Jeanne Bishop, noted author and longtime Chicago public defender, delivers a gripping preview of her upcoming book, *Grace from the Rubble: Two Fathers' Road to Reconciliation after the Oklahoma City Bombing*. Printed herein in its entirety, Bishop's address provides a compelling analysis detailing why this remarkable restorative justice story should matter to all of us.¹

As part of this story, Bishop shares her own unique restorative justice journey, captured in her previous best-selling book, *Change of Heart: Justice, Mercy, and Making Peace with My Sister's Killer*. This unforgettable tale describes the brutal murder of her pregnant sister and brother-in-law by a teen killer and Bishop's subsequent twenty-year journey toward eventual reconciliation with that offender.² Against this backdrop of transformative forgiveness and consolation, Bishop relates the key events leading to the April 19, 1995, Oklahoma City bombing. She does this from the perspective of Bud Welch, who lost Julie, twenty-three years old and his only daughter; and Bill McVeigh, whose only son was Timothy McVeigh, who committed the bombing that killed Julie and 167 other innocent people. In both horrific and riveting detail, Bishop describes how this national tragedy was planned and unfolded, and how each father and the Oklahoma City community reacted to the unimaginable harm that resulted. She then uplifts us by explaining how Bud Welch and Bill McVeigh met and began to reconcile their losses, and that this matters because "we need to grapple with how to respond to evil" and "we need to know how to respond to those who have hurt us."³

And what is Bishop's ultimate restorative justice message for us all: You do not have to be defeated by evil. . . . Like Bud and Bill, you can transform tragedy into redemption. . . . You can turn brokenness into unity, strife into peace. You can go out into this world, working to redeem it and make it whole.⁴

The symposium's first panel concerned restorative justice in theory and practice for legal education and beyond.⁵ Father Dan Griffith, who moderated this panel, solicited thoughtful insights on restorative justice from each panelist. In his subsequent *Law Journal* article, on the effectiveness of restorative justice in response to clergy abuse, he draws from a wide

1. Jeanne Bishop, Keynote Address at the University of St. Thomas Law Journal Symposium: Restorative Justice, Law & Healing (Oct. 25, 2019), in 17 U. ST. THOMAS L.J. 8 (2020).

2. *Id.* at 8–9.

3. *Id.* at 16.

4. *Id.* at 17.

5. Janine Geske, Mary Novak & Caitlin Morneau, Opening Panel at the University of St. Thomas Law Journal Symposium: Restorative Justice, Law & Healing (Oct. 25, 2019).

variety of sources, including his own personal priestly journey, Scripture, Catholic liturgy, Catholic social teaching, and Pope Francis. Of special note, Father Griffith builds upon the comments and work of panel participants former Wisconsin Supreme Court Justice Janine Geske and Caitlin Morneau of the Catholic Mobilizing Network. His description of Justice Geske's personal restorative justice journey in addressing clergy abuse and other harms is truly inspiring.⁶

Father Griffith also addresses the terrible crime and sin of clergy sexual abuse and its cover-up from his perspective as a lawyer, priest, and pastor in the Archdiocese of St. Paul and Minneapolis. He describes in some detail the positive changes in the archdiocese that have occurred since the summer of 2015 when state prosecutors in Ramsey County brought criminal charges and civil claims against the archdiocese for its failure to protect children.⁷ The archdiocese's commitment to adopt and follow restorative justice practices was critical to resolving the civil claims, which in turn led to the settlement of the criminal charges. Further, Father Griffith became so directly involved in these practices that he ultimately was appointed the liaison for restorative justice and healing for the entire archdiocese. In this role, he strongly endorses the healing power of his circle work with victim-survivors and the many others harmed by the scourge of clergy sexual abuse and its ripple effects. He concludes by suggesting that, if the Catholic Church embraces deep reform and greater accountability, it will be in a position to be "an instrument of healing and restoration for a wounded nation and world."⁸

Another first panel participant, Mary Novak of Georgetown Law Center, provided fascinating insights into the healing need for trauma-informed lawyering. In her subsequent *Law Journal* article, Novak expands her trauma analysis to focus on the critical role of how one responds to trauma exposure and the strategies available to prevent or ameliorate trauma. In particular, Novak introduces the concept of "making meaning" as a key component of trauma recovery for lawyers and law students.⁹

In explaining her concept of "making meaning," Novak describes how one first must understand what caused the traumatic situation to happen, its "hows" and "whys," before entertaining how best to be able to respond to it. She then explains how trauma exposure and its role in our legal system affect us, our worldview, and our ongoing life narrative. She offers practical advice in these areas based on her work with law students in clinical situations dealing with clients. Novak closes with a case study that offers a pene-

6. Daniel Griffith, *Healing the Harm—the Effectiveness of Restorative Justice in Response to Clergy Abuse*, 17 U. ST. THOMAS L.J. 18 (2020).

7. *Id.* at 31–38.

8. *Id.* at 42.

9. Mary J. Novak, *Forming Restorative Justice Practitioners: Learning to Make Meaning of Our Trauma Exposure Response*, 17 U. ST. THOMAS L.J. 43 (2020).

trating look at trauma-informed responses and healing based on her restorative work with members of the Georgetown Climate Center and their challenging environmental work. We are left with a path “to find hope and build resilience.”¹⁰

The symposium’s second panel addressed using restorative justice to heal participants and overcome injustice.¹¹ Dr. Artika Tyner delivered a powerful presentation on the intersection of racial justice and restorative justice. She focused on the school-to-prison pipeline’s impact on the lives of children of color and those with disabilities, its connection to mass incarceration, and what can be done about it. In her *Law Journal* article, Dr. Tyner explains how to dismantle the school-to-prison pipeline through restorative justice practices, which can serve as an “instrumental tool” in school disciplinary matters.¹²

Dr. Tyner begins by confronting several common myths, that school violence has been increasing and that “children of color were committing crime and engaging in misbehavior at a higher rate than their white counterparts.”¹³ She explains how these false assumptions have led to a disproportionate adverse impact on students of color where they have been “criminalized for adolescent behavior.”¹⁴ In turn, she claims, school disciplinary procedures have become punitive vehicles of retribution that then manifest in the “tangled mess of mass incarceration.”¹⁵

As a remedy, Dr. Tyner proposes the use of restorative justice practices to create a culture of community healing and collective engagement. She describes how restorative justice has been somewhat successfully used in schools, but then recommends a “radical paradigm shift in school disciplinary practices,” and provides specific principles and programs to be utilized.¹⁶ These range from prevention approaches, such as increasing literacy rates, to intervention methods, such as juvenile detention alternative initiatives.¹⁷

As part of the second panel, Annalise (Annie) Buth, of Northwestern Law, and Monica Cosby, a restorative justice practitioner from Chicago, provided deeply thoughtful, often thought-provoking remarks, born from their personal experiences. Ms. Buth, in her dispute resolution role, often works with Ms. Cosby, who was formerly incarcerated for twenty years, as they now promote restorative justice practices together.

10. *Id.* at 58.

11. Annalise Buth, Monica Cosby & Artika R. Tyner, Second Panel at the University of St. Thomas Law Journal Symposium: Restorative Justice, Law & Healing (Oct. 25, 2019).

12. Artika R. Tyner, *The Tangled Web of Mass Incarceration: Addressing the School-to-Prison Pipeline through a Restorative Justice Approach*, 17 U. ST. THOMAS L.J. 59 (2020).

13. *Id.* at 62.

14. *Id.*

15. *Id.* at 65.

16. *Id.* at 73.

17. *Id.* at 73–80.

In their joint journal article, written more than six months after the symposium, Ms. Buth and Ms. Cosby impart “Restorative Revelations” in a memorable manner that will cause any reader to ponder and reconsider some fundamental aspects of restorative justice, and perhaps their own lives.¹⁸ Drawing on the compounding tragedies of the COVID-19 pandemic and the horrific police killings of George Floyd and too many other persons of color, which they categorize as a form of “omniharm,” they present a vivid picture of a racism pandemic that will trouble your conscience and soul.¹⁹ They further explain how “omniharm” extends to poverty, addiction, mental illness, and many other factors that lead to mass incarceration for people of color.²⁰

Ultimately, they turn to restorative justice to provide a bridge to a more just world. In their view, restorative justice is “love in action,” which requires genuine accountability in order to address and repair harm.²¹ Further, they call for liberation from harmful narratives that can reinforce white supremacy, and rejection of typical restorative justice language, such as “offender” and “addict,” which can dehumanize people.²²

Ms. Buth and Ms. Cosby believe that our current crises present a portal for meaningful opportunities for transformative restoration. Toward this end, they advocate for practiced introspection and the development of relationships that create true community and solidarity.²³ In sum, Ms. Buth and Ms. Cosby have issued a compelling call to action for us all to rebuild society through restorative justice.

The afternoon session of the symposium brought together in a public forum for the first time the persons who had been most directly involved in the resolution of the unprecedented state criminal charges and civil claims previously brought against the Archdiocese of St. Paul and Minneapolis.²⁴ Archbishop Bernard Hebda and Timothy O’Malley, director of ministerial standards and safe environment, appeared on behalf of the archdiocese. They were joined by those who brought the case, Ramsey County Attorney John Choi and Stephanie Wiersma, one of his assistant county attorneys. The panel focused almost entirely on the participants’ use of restorative justice in bringing understanding to Church leaders and healing to victim-survivors and others who have been harmed. The panel was moderated by Thomas Johnson, the ombudsman for clerical sexual abuse and a former

18. Monica Cosby & Annalise Buth, *Restorative Revelations*, 17 U. ST. THOMAS L.J. 81 (2020).

19. *Id.* at 90–99.

20. *Id.*

21. *Id.* at 88.

22. *Id.* at 100–01.

23. *Id.* at 102–04.

24. Bernard Hebda, Timothy O’Malley, John Choi & Stephanie Wiersma, Third Panel at the University of St. Thomas Law Journal Symposium: Restorative Justice, Law & Healing (Oct. 25, 2019), in 17 U. ST. THOMAS L.J. 133 (2020) [hereinafter Third Panel].

Hennepin County attorney. Given the valuable insights revealed throughout the afternoon, the *Law Journal* has decided to publish a transcript of the entire session. Here are a few of the highlights.

The participants had very different backgrounds with restorative justice before the case was brought. Archbishop Hebda and Tim O'Malley candidly admitted that they had little knowledge of or experience with restorative justice beforehand, while John Choi had benefited from its use on prior occasions when he was the St. Paul city attorney.²⁵ Thus, John Choi proposed its use in resolving the civil case against the archdiocese.²⁶ After Archbishop Hebda met with former Justice Janine Geske and learned of the tremendous potential benefits of restorative justice in addressing the harms of clergy sexual abuse, he agreed to personally take part in healing circle sessions with, and host a restorative justice conference for, victim-survivors as part of the civil settlement.²⁷

Archbishop Hebda shared some of the personal revelations he has experienced from those restorative justice sessions.²⁸ Further, he and Tim O'Malley described the many other restorative justice encounters they have experienced, including working regularly with victim-survivors seeking reform of Church practices, attending gatherings with archdiocesan priests who have been harmed by the abuse committed by other priests, and meeting with entire parishes seeking to heal and regain trust in the Church.²⁹ Both John Choi and Stephanie Wiersma favorably commented on how the archdiocese had gone far beyond the terms of the settlement agreements in enacting these and other reforms.³⁰

One final point is especially poignant: as a result of the settlement, Ramsey County and the archdiocese mutually agreed to appoint Tom Johnson as the ombudsman for clerical sexual abuse, who would serve as an independent person and advocate for victim-survivors of clergy sexual abuse. At the end of the afternoon session, Tom Johnson said that his time as ombudsman "is one of the most rewarding things I've done in my career."³¹ Archbishop Hebda interjected that "you've done a fabulous job . . . always bringing your own perspective and that interest in justice that makes all the difference. . . . We . . . will continue to gain traction if we can only find more Tom Johnsons."³²

On June 8, 2020, Tom Johnson passed away after a long battle with cancer. I dedicate this foreword in memory of him. Moreover, I am grateful

25. *Id.* at 134–36.

26. *Id.* at 137.

27. *Id.* at 138.

28. *Id.* at 140.

29. *Id.* at 141–44.

30. Third Panel, *supra* note 24, at 145.

31. *Id.* at 155.

32. *Id.*

to report the new ombudsperson selected to replace him is Tom's wife, Victoria Newcome Johnson, a lawyer who has a huge heart for people in need of healing. Tom's work continues.