

November 2020

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### Recommended Citation

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

Available at: <https://ir.stthomas.edu/ustlj/vol17/iss1/3>

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## ARTICLE

# HEALING THE HARM—THE EFFECTIVENESS OF RESTORATIVE JUSTICE IN RESPONSE TO CLERGY ABUSE

DANIEL GRIFFITH\*

In this article, I describe the nature of restorative justice, its origins, and its many practical uses in response to harm, including the harm of clergy abuse. Restorative justice interfaces well with the discipline and practice of law, as both are oriented to classic justice—giving each their due. Restorative practices are also consistent with biblical justice in that they foster right relationship among those who have been harmed and broader society. The fall 2019 law symposium at the University of St. Thomas School of Law ably demonstrated the utility of restorative justice in healing harm, as manifested through its diverse and adaptable applications.<sup>1</sup> In teaching restorative justice to law students, my colleague Professor Hank Shea and I have discovered an openness to restorative practices and their power to bring personal healing to law students, where needed. In addition, restorative practices align well with important practical legal skills, consistent with emerging research that demonstrates that skills of listening, empathy, and teamwork are integral to successful lawyering.<sup>2</sup>

Drawing from restorative justice's use in St. Paul and Minneapolis, critical foundations of biblical and Catholic thought, and the rich stories of Justice Janine Geske, a pioneer in this field, I will demonstrate why restora-

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1. See, e.g., Janine Geske, Mary Novak, and Caitlin Morneau, Opening Panel at the University of St. Thomas Law Journal Symposium: Restorative Justice, Law & Healing (Oct. 25, 2019), which described the use of restorative practices in response to clergy abuse, in the criminal justice system, and in response to genocide.

2. See NEIL W. HAMILTON, ROADMAP: THE LAW STUDENT'S GUIDE TO MEANINGFUL EMPLOYMENT (2018). See also *supra* note 1, Mary Novak's reference to Professor Hamilton's work vis-à-vis law student formation and education.

tive justice and restorative practices are particularly effective in response to clergy abuse and the ripple effects experienced by many Catholics. In addition, I will describe how restorative justice is consistent with the goals of Catholic social teaching and the vision of Pope Francis in accompanying those who have been marginalized and in seeking a more just and inclusive society.<sup>3</sup> If the Catholic Church embraces greater reform and institutional integrity, it will be uniquely able—given its mission of healing—to use restorative practices as a healing balm in a post-pandemic world and in this nation burdened by the harm of persistent injustice, including racial injustice.

### I. RESTORATIVE JUSTICE AND ITS MULTIPLE APPLICATIONS

Restorative justice and restorative practices have been effectively used in a wide variety of legal and nonlegal settings in response to harm. Often, when I tell someone inside or outside the Catholic Church that I am doing work in restorative justice, they give me a quizzical look. I have found that priests and lawyers are among the most skeptical regarding restorative justice. I was in a similar place. Like Janine Geske, a pioneer in applying restorative practices to the harm of clergy abuse, when I first heard about restorative justice, I thought it sounded ethereal and ungrounded. Over the past several years, I have discovered the power of restorative justice and its utility in a variety of circumstances. Restorative justice has become a worldwide movement because it works. Additionally, I have been encouraged to discover that restorative justice is consistent with and enhanced by the truth of Scripture and Catholic teaching. The wisdom of Scripture and the Catholic tradition seek to foster right relationship with God and neighbor, as well as broader human flourishing.<sup>4</sup> Justice and flourishing are also the goals of restorative justice. Thus, the foundation that Scripture and Catholic tradition provide in turn bolsters the effectiveness of restorative practices inside the Church.<sup>5</sup>

Restorative justice is a philosophical and practical approach to harm.<sup>6</sup> Its origins are traced to the Indigenous peoples of New Zealand and North America.<sup>7</sup> The fact that restorative justice is consistent with the nature of the human person as a social creature is another key to its effectiveness and

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3. See, e.g., Pope Francis, Homily, Visit to Lampedusa, Celebration of Holy Mass at “Arena” Sports Camp (July 8, 2013), decrying a globalization of indifference.

4. See ANDREW KIM, AN INTRODUCTION TO CATHOLIC ETHICS SINCE VATICAN II, 108–09 (2015).

5. Stephen Pope, *Can Restorative Justice Help the Church Heal from Sex Abuse Scandals?*, AM. MAG. (Dec. 6, 2018), <https://www.americamagazine.org/faith/2018/12/06/can-restorative-justice-help-church-heal-sex-abuse-scandals>.

6. Janine Geske, Address on Restorative Justice in Response to Clergy Abuse, Given at Wheeling University, Wheeling, W. V. (Feb. 26, 2020).

7. HOWARD ZEHR, THE LITTLE BOOK OF RESTORATIVE JUSTICE: REVISED AND UPDATED 21 (2015).

proliferation in a variety of settings. When harm occurred in Indigenous communities centuries ago, members of the community gathered to talk about the harm and its effects.<sup>8</sup> Reconciliation and peace were the goals of these gatherings, which would often take place in a circle. According to Catholic teaching, all people are wounded and affected by original sin—our fallen human nature is an existential given.<sup>9</sup> Thus, people do not exist and live in a state of perfect harmony in society, or in particular communities.<sup>10</sup> When significant harm occurs, a given society or community must develop methods to respond to harm that further the wellbeing of the community. In the Western tradition, law arose as a gift of reason that was oriented to the common good of the community.<sup>11</sup> As I sometimes jokingly, but accurately, tell my law students, the legal profession is perhaps the most proximate profession to the fallen nature of humanity. If we were not fallen, there would be no need for human law or lawyers. The wisdom of restorative justice and restorative practices is that they originated as a nonlegal approach to harm rooted in the social nature of the human person—in furtherance of the wellbeing of the community.

Restorative justice, as practiced today, asks three fundamental questions: who was harmed; what was the nature of the harm; and how can the harm be repaired?<sup>12</sup> In some cases, restorative justice has been described using a circle or triangle which encompasses the voices of victim-survivors, the community, and offenders.<sup>13</sup> Restorative justice manifests a special concern for victim-survivors, as it first looks to repair the direct harm experienced by victims.<sup>14</sup> Additionally, restorative justice can encompass both criminal and noncriminal harm. Restorative justice and restorative practices are also employed to heal the peripheral harm experienced by members of a given community. For example, in the Catholic Church, the abuse crisis and failures of leadership have caused significant ripples of harm that affect all Catholics. As I explain below, important work has been done and further work is needed for victim-survivors and the countless Catholics in the United States and globally who are laboring under the weight of the twin crises of abuse and cover-up.

Restorative justice may also include, under certain circumstances, offenders. If restorative practices are employed with a victim-survivor and an offender, it is only after the victim-survivor agrees that this may be helpful to his or her healing, and only if the offender accepts responsibility for the

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8. Geske, *supra* note 6.

9. JOHN PAUL II, CATECHISM OF THE CATHOLIC CHURCH, §§ 400–02 (1994).

10. *Id.*

11. GEORGE C. CHRISTIE & PATRICK H. MARTIN, JURISPRUDENCE: TEXT AND READINGS ON THE PHILOSOPHY OF LAW 152 (2011).

12. Geske, *supra* note 6.

13. ZEHR, *supra* note 7, at 23–28. *See also Restorative Justice*, CATHOLIC MOBILIZING NETWORK, <https://catholicmobilizing.org/restorative-justice> (last visited Oct. 7, 2020).

14. ZEHR, *supra* note 7, at 23.

harm that was caused. The acceptance of responsibility by the offender is integral to restorative justice's successful use among victims and offenders.<sup>15</sup> In the criminal justice setting, restorative justice, which is victim-survivor centered, is often distinguished from rehabilitation that focuses on perpetrators of criminal harm. The United States Conference of Catholic Bishops has strongly advocated that the criminal justice system in the United States include the important work of rehabilitation for those in prison and those who will return to society.<sup>16</sup> As Janine Geske, Mark Umbreit, and other restorative justice practitioners have observed, restorative practices, including healing circles, have been used effectively to restore and rehabilitate offenders—inside prison and out.<sup>17</sup>

In multiple restorative justice forums I have led or attended, the question of using restorative practices for those who have committed clergy abuse has been raised frequently. Catholics know that God desires restoration and flourishing for all God's children, including those who have caused great harm. Catholic teaching confirms that Jesus discards no one.<sup>18</sup> Pope Francis has frequently decried the throwaway culture that fails to affirm the universal dignity of persons, discarding those who are not deemed to serve social utility.<sup>19</sup> Prudence, consultation of experts, and pastoral wisdom should guide the decisions of whether, how, and when restorative practices might be appropriately extended to clergy who have abused children or vulnerable adults, as well as to those who have either perpetuated the spread of clergy abuse or fostered its cover-up.

Today, restorative justice and restorative practices are utilized in a variety of settings, throughout the United States and globally. Many middle schools, high schools, and colleges routinely integrate restorative practices into disciplinary response to harm. Schools employ restorative practices to realize a number of goals, including helping students who have caused harm recognize the impact of their behavior.<sup>20</sup> Restorative practices are even utilized with very young students. For example, at the Catholic Indian Mission School in Fort Yates, North Dakota, kindergarten students gather in circles and pass a peace rose in response to harm or conflict that has

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15. *Id.* at 27.

16. *Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice*, U.S. CONF. OF CATH. BISHOPS (2016), <https://www.usccb.org/resources/responsibility-rehabilitation-and-restoration-catholic-perspective-crime-and-criminal>.

17. Janine Geske & Mark Umbreit, Presentation on Restorative Justice, Basilica of St. Mary, Minneapolis, Minn. (Nov. 2017).

18. See U.S. CONF. OF CATH. BISHOPS, *supra* note 16.

19. See, e.g., Pope Francis, Address to the Members of the Council for Inclusive Capitalism (Nov. 11, 2019) (decrying an economic system lacking any ethics, which leads to a throwaway culture). See also CHARLES C. CAMOSY, *RESISTING THROWAWAY CULTURE: HOW A CONSISTENT LIFE ETHIC CAN UNITE A FRACTURED PEOPLE* 39 (2019).

20. Interview with Lynne Lang, Restorative Just. Practitioner, Teacher, and Founder & President, Restoration Matters, in Minneapolis, Minn. (Aug. 21, 2019) (discussing integration of restorative practices into education curricula).

occurred.<sup>21</sup> The fact that these practices first arose from the culture of the First Nation peoples of North America contributes to the power of their contemporary use in this setting. Restorative practices are also utilized frequently in the juvenile justice system throughout the United States to complement or supplement formal criminal proceedings.<sup>22</sup> Data show that employing restorative practices with juvenile offenders and victims can further important goals: educating juveniles about the nature of harm; fostering a greater sense of fairness; reducing recidivism; and providing a greater sense of satisfaction for victims, including the opportunity to forgive juvenile offenders.<sup>23</sup>

In addition to helping students and juveniles appreciate the nature and effects of harm, restorative practices are employed with considerable success in response to harm perpetrated by adults. Africa and Europe lead the way globally in employing restorative justice and restorative practices in response to adult harm, with notable work done in Northern Ireland, South Africa, and Rwanda, and through groundbreaking initiatives of the European Union.<sup>24</sup> Restorative practices are also used in veterans' courts where offenders are provided an opportunity to confront the harm they have experienced as a result of military service, which invites decisionmakers within the system to put the crimes committed by veterans into a proper context.<sup>25</sup>

Restorative practices are also employed in prison settings where offenders are invited into ongoing circles to talk about harm they may have experienced as children, life in prison, or the harm that resulted from their criminal behavior and attendant incarceration.<sup>26</sup> These practices are welcomed by many inmates, which often leads to greater healing and rehabilitation.<sup>27</sup> Finally, restorative practices are utilized in some community settings as a means to confront challenging circumstances and an impetus to greater dialogue and peace. For example, Russel Balenger has used the re-

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21. Interview with Monsignor Chad Gion, Canonical Adm'r, Cath. Indian Mission Sch., in Fort Yates, N.D. (Oct. 19, 2019).

22. REDEMPTION AND RESTORATION: A CATHOLIC PERSPECTIVE ON RESTORATIVE JUSTICE 35 (Trudy D. Conway et al. eds., 2017).

23. See, e.g., DAVID B. WILSON ET AL., EFFECTIVENESS OF RESTORATIVE JUSTICE PRINCIPLES IN JUVENILE JUSTICE: A META-ANALYSIS 3–4 (2017).

24. See, e.g., CENTRE FOR JUSTICE AND RECONCILIATION: A PROGRAM OF PRISON FELLOWSHIP INTERNATIONAL, <http://restorativejustice.org> (last visited Oct. 7, 2020).

25. See VETERANS DEFENSE PROJECT, <http://veteransdefenseproject.org> (last visited Oct. 7, 2020), for a description of Brock Hunter's important work through the Veterans Defense Project (VDP) and advocacy for veterans whose combat trauma leads to criminal harm. Hunter and Ryan Else's pioneering work led to the passage of Minnesota's veterans' sentencing legislation, which has been cited by the U.S. Supreme Court in *Porter v. McCollum*, 558 U.S. 30 (2009).

26. Janine Geske, Presentation on Restorative Justice at the Basilica of St. Mary, Minneapolis, Minn. (Nov. 2017). See also Marquette Law School, *Torn by Trauma*, YOUTUBE (Feb. 18, 2020), <https://www.youtube.com/watch?v=SL8-OuJ0tGE> (exploring the positive effects of restorative justice and restorative practices).

27. See Hunter Johnson, *Restorative Justice in the Catholic Church and Beyond*, YOUTUBE (Sept. 12, 2020), [https://www.youtube.com/watch?v=VROPTYyCR\\_8](https://www.youtube.com/watch?v=VROPTYyCR_8).

storative practice of weekly circles for years in St. Paul, Minnesota, where The Circle of Peace Movement (TCOPM) provides an important avenue to positively respond to racial injustice and community conflict.<sup>28</sup> In the above settings, restorative justice encompasses and may employ a variety of restorative practices, including healing circles, victim-offender dialogues, and victim-survivor testimonials.

No one in the Catholic Church has eclipsed the work of Janine Geske in applying restorative justice and restorative practices to the harm of clergy abuse and cover-up. Geske is a pioneer in this area and has served as a mentor for many restorative justice practitioners, including me. Justice Geske, a native of Milwaukee, Wisconsin, is a trained lawyer who has served in a variety of roles, including district court judge, distinguished professor of law, and associate justice of the Wisconsin Supreme Court. Prior to her appointment to the Wisconsin Supreme Court, Geske took the opportunity for a deep dive into restorative justice during a three-day program at a Green Bay prison. She was serving as a district court judge at the time. During her presentations, Geske notes that most people come to understand and enter the realm of restorative justice gradually, but her first experience with restorative justice was full-on immersion.<sup>29</sup> Geske, like many lawyers, was skeptical upon first hearing about restorative justice, but quickly saw the powerful dynamic that restorative practices create, as well as their effectiveness.<sup>30</sup> In short, Geske discovered that restorative justice works, and any experienced restorative justice practitioner will confirm this positive reality. In addressing the question of whether using restorative justice to respond to the harm of clergy abuse is effective, Geske's vast experience and powerful stories attest strongly that the answer is yes.

While serving as a justice on the Wisconsin Supreme Court, Geske heard and answered a call to leave the court for full-time restorative justice work. Geske's decision to answer this call and follow the path of restorative justice has been a source of blessing for many victim-survivors and offenders, and for those whom she has mentored. Since leaving the Wisconsin Supreme Court, Geske has traveled the United States and indeed the globe presenting on restorative justice, leading trainings, and facilitating the use of restorative practices to respond to harm. She frequently cites a moment of enlightenment when she realized the potential of using restorative practices to respond to the harm of clergy abuse. She heard parishioners in Milwaukee remark about victim-survivors, "Why can't they just get over it?"<sup>31</sup> This spurred Geske into action, resulting in years of successful use of restorative practices to heal the harm of clergy abuse and its ripple effects.

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28. See THE CIRCLE OF PEACE MOVEMENT, <https://tcopm.org> (last visited Oct. 7, 2020) (providing a path to racial healing and peaceful communities).

29. Geske, Presentation on Restorative Justice, Wheeling, W. Va. (2020).

30. *Id.*

31. *Id.*

Geske has used restorative practices within the Catholic Church in a variety of settings: teaching restorative justice to law students at Marquette University and the University of St. Thomas; hosting an annual conference on restorative justice at Marquette; initiating a groundbreaking video of a healing circle on clergy abuse; teaching at the Gregorian Jesuit University in Rome; and facilitating the effective use of restorative practices in multiple locations, including Ireland, Turkey, Belgium, Iran, Nigeria, West Virginia, and Minnesota. Geske's gifts of intelligence, prudence, empathy, and powerful storytelling combine to create a *tour de force* for greater justice and healing in response to harm.

## II. BIBLICAL AND THEOLOGICAL FOUNDATIONS FOR RESTORATIVE JUSTICE

Since beginning restorative justice ministry more than four years ago, I have been heartened by how consistent the vision of restorative justice and its attendant practices is with biblical and Catholic theology. Restorative justice holds great potential as a source of healing in the Catholic Church, in large part because of its consonance with biblical justice and the Catholic intellectual tradition. In Hebrew Scripture, God manifests as a God who acts justly. God's goodness, love, and mercy are not merited by humanity. Rather, creation, grace, redemption, and salvation are gifts that God freely and gratuitously extends to his children. God can be rightly described as just when God acts according to his nature.<sup>32</sup> In Hebrew Scripture, God manifests three distinct, but related, dimensions of justice: retributive justice (punishment), distributive justice (just distribution of the goods of the land), and restorative justice. The book of Genesis, for example, demonstrates God's use of retributive justice in his punishment of Adam and Eve, and Cain.<sup>33</sup> Interestingly, the story of Noah and the ark encompasses all three dimensions of justice—punishment, preserving the goods of the earth for future generations, and restoration.<sup>34</sup>

When examining the different dimensions of biblical justice, it is important to note that retributive justice is not exercised for its own sake, but rather is intended to correct and restore the offender to right relationship with God and neighbor. Restoration is also the orientation of distributive justice. In Scripture, the prophets are the main agents of distributive justice as they speak out often and forcefully on behalf of God when rulers and the wealthy misuse power or hoard the goods of the earth.<sup>35</sup> The prophetic

32. MODERN CATHOLIC SOCIAL TEACHING: COMMENTARIES AND INTERPRETATION 14 (Kenneth R. Himes ed., 2005) (describing justice as fidelity to the demands of covenantal relationship: "God is just when he acts as a God should . . .").

33. See *Genesis* 3:16–19 and *Genesis* 4:9–16 (New American Bible, St. Joseph ed.).

34. See *Genesis* 6:5–9:28 (New American Bible, St. Joseph ed.).

35. MODERN CATHOLIC SOCIAL TEACHING: COMMENTARIES AND INTERPRETATION, *supra* note 32, at 22–23.



voice is particularly concerned with the marginalized and thus decries actions taken without due consideration of the *anawim*—those bent down and suffering.<sup>36</sup> In Hebrew Scripture, justice is understood as right relationship—encompassing one’s relationship with both God and neighbor.<sup>37</sup> Those who are described as just or righteous in Scripture live in right relationship with God and neighbor.<sup>38</sup> In this sense, biblical justice complements that classical definition of justice—to give another his or her due. Like retributive justice, the prophetic critique of sin and injustice also furthers a restorative horizon—seeking to restore those in sin to right relationship with God and neighbor. An additional biblical corollary to the dynamic of restorative justice is the prophet’s role to name the harm, which advances the goals of redressing the effects of harm and restoring justice.

In addition to the restorative horizon advanced by retributive and distributive justice in Scripture, God’s restorative action on behalf of his people is a consistent biblical theme. The words *restore* and *restoration* appear nearly two hundred times in both testaments of Scripture.<sup>39</sup> What is more, the theme of restoration is clearly recognized across the broad spectrum of biblical genres, including the law, wisdom literature, the psalms, and the prophets.<sup>40</sup> Thus, restoration is not only a prolific biblical theme in terms of the number of references, it is also pervasive in terms of the breadth of biblical genres where God’s restorative work appears. A frequent pattern can be recognized in Hebrew Scripture where Israel experiences harm or captivity—either due to its own sin or as a result of the harmful actions of neighboring kingdoms. In response to the harm and the plight of his people, God enters their experience to liberate and restore them. The prophets prophesy the restorative work of God in the future, and the psalms recall and celebrate God’s restorative work on behalf of his people. Illustratively, the story of the liberation of God’s people from Egypt is ultimately a story of restoration.<sup>41</sup> This story of restoration culminates in the arrival of God’s people in Jerusalem, where they enjoy the fruit of God’s promise. For Christians, the restorative work of God in Hebrew Scripture and God’s liberation of his people from captivity in Egypt prefigure the restorative mission and ministry of Jesus Christ.<sup>42</sup>

Scripture and Catholic teaching communicate that healing and restoration are central to the mission and ministry of Jesus Christ. The restoration prophesied in Hebrew Scripture culminates in God’s incarnate son, Jesus Christ, who comes to heal and save what had been wounded and lost.

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36. *Id.* at 21–22.

37. *Id.* at 14.

38. *Id.*

39. OPENBIBLE.INFO, <https://www.openbible.info> (last visited Oct. 7, 2020).

40. *Id.*

41. See *Exodus* 5–12 (New American Bible, St. Joseph ed.).

42. JOHN PAUL II, *supra* note 9, § 1221.

Christ's mission is to reconcile and restore humanity to the love of the Father. The incarnation of God is restorative justice personified—God enters into the harm and the darkness of our world to raise a wounded and fallen humanity. From the beginning of the Gospels, Christians recognize the power of Jesus's healing ministry. In Jesus, no one is turned away from the restorative power of God. All are invited into God's reign and the goodness of the Kingdom—with the first invitation issued to the least, the last, and the lost. Countless parables communicate the love and mercy of God in Jesus Christ, who forgives sin and manifests a particular concern for the wounded and alienated. In addition, the physical healings that Jesus performs are signs of the greater spiritual healing that Christ accomplishes through his passion, death, and resurrection. For example, in the familiar passage found in the Gospel of Matthew of the paralytic man lying on a stretcher, Jesus exclaims, "Which is easier, to say, 'Your sins are forgiven,' or to say, 'Rise and walk'?"<sup>43</sup> In the Gospels, as in restorative justice, spiritual and emotional wholeness are attended to with great care.

Multiple New Testament passages convey the restorative ministry of Christ. Jesus communicates the primacy of forgiveness of sins throughout the Gospel. When one is forgiven by Christ—especially when in serious sin—the experience of restoration and a new beginning is existential. At its core, the story of the prodigal son is about restoration, as the love and forgiveness of the father restores the son to a life of dignity.<sup>44</sup> Additionally, the woman caught in adultery and the woman at the well come to mind, as do the stories of Zacchaeus and Matthew—all are called out of sin and into a life of vibrant discipleship.<sup>45</sup> Imagine, like Paul, the powerful testimony of these great saints to the mercy and goodness of God. The call of the Lord and the corresponding "yes" to follow God, result in radical *metanoia*, where life itself and the meaning of life take on a new horizon and where selfishness and sin are transformed into gratitude and zeal for God. These are stories of God's grace and restoration, which abound throughout the Gospels.

Christ's work of restoration also extends to those in the New Testament whose condition was no fault of their own, but rather the result of how they were born. The miracles that Jesus performs allow those healed to experience new life, restoration, and the gift of reintegration into the community and public worship. Additionally, the story of the road to Emmaus develops along the same lines as the dynamic of restorative justice. Like the stories of healing, mercy, and the call to discipleship noted above, the story of the road to Emmaus begins with Jesus encountering his disciples as they are—in a state of confusion—and accompanying them in their existential

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43. *Matthew* 9:1–8 (New American Bible, St. Joseph ed.).

44. *See Luke* 15:11–32 (New American Bible, St. Joseph ed.).

45. *See John* 4:4–26, 7:53–8:11; *Luke* 19:1–10; *Matthew* 9:9–13 (New American Bible).

crisis. Jesus's invitation to share their story leads to the unfolding of God's grace and their enlightenment.<sup>46</sup> The story culminates in their recognition of Jesus—God's incarnate love and mercy broken and given for the world. The process and practices of restorative justice make use of similar dynamics: encounter, openness, sharing, and listening—toward the goals of greater truth and healing.

In addition to the prominence of God's restorative work in Scripture, the theme of restoration is also consistently seen in the readings and prayers used in the liturgy of the Eucharist. As I learned more about restorative justice and entered more fully into this vital ministry, my eyes were opened to the abundance of the theme of restoration in the celebration of the Eucharist. In particular, the celebrations of Christmas and Easter make multiple references to the restorative work of God in Christ and convey that restoration is indeed central to these two great Christian feasts.<sup>47</sup>

An important Catholic liturgical principle—often communicated in Latin as *lex orandi, lex credendi*—is that the law of prayer informs the law of belief.<sup>48</sup> This principle holds true for the use and meaning of restoration, which is abundantly seen in the Catholic liturgy. For example, the first reading from Isaiah set on Christmas Day proclaims, “Hark! Your sentinels raise a cry, together they shout for joy, for they see directly before their eyes, the Lord restoring Zion.”<sup>49</sup> In the opening prayer for Christmas Day we hear these words: “O God who wonderfully created the dignity of human nature and still more wonderfully restored it, grant, we pray, that we may share in the divinity of Christ, who humbled himself to share in our humanity.”<sup>50</sup> From the first preface to the Eucharistic prayer on Easter, we also hear the truth of restoration proclaimed: “For he is the true Lamb who has taken away the sins of the world; by dying he has destroyed our death, and by rising, restored our life.”<sup>51</sup> Lastly, Fr. David Kelly of Precious Blood Ministries in Chicago has noted how restorative practices, like the Catholic liturgy, make effective use of symbols and ritual, which help focus us to make room for the sacred—in furtherance of healing and wholeness.<sup>52</sup> Like the Catholic liturgy, restorative practices invite those who participate to be vulnerable, humble, and open to the experience of deeper communion and transformation.

46. See *Luke 24:13–35* (New American Bible).

47. The Roman Missal 164, 540 (Int'l Comm'n on English in the Liturgy trans., amended third Latin typical ed. 2008) [hereinafter *The Roman Missal*].

48. JOHN PAUL II, *supra* note 9, § 1124.

49. *Isaiah 52:7–10* (Catholic Lectionary for Christmas Day).

50. *The Nativity of the Lord [Christmas]*, in *The Roman Missal*, *supra* note 47, at 175 (opening prayer for Christmas Day).

51. *Preface I of Easter*, in *The Roman Missal*, *supra* note 47, at 558.

52. Fr. David Kelly, Comments at the Precious Blood Ministry of Reconciliation Healing Circle Facilitator Training, Chi., Ill. (Oct. 16–19, 2019).

In addition to being consistent with Scripture and Catholic liturgy, the trajectory of restorative justice is consistent with the goals of Catholic social teaching. Catholic social teaching is founded upon important truths rooted in the nature of the human person: we are social creatures; having been created by God and in God's image, we possess inherent dignity; as we are fallen and affected by original sin, our social order is often marked by sin and injustice; the light of truth from faith and reason is available to human persons so that a more just and humane social order might be advanced.<sup>53</sup> The overarching goal of Catholic social teaching is to provide objective principles that can be applied to subjective situations—to promote human flourishing, the common good, and the attainment of justice.<sup>54</sup> Another important dimension of Catholic social teaching is its prophetic critique of harm, injustice, and structures of sin. Restorative justice converges with the aims of Catholic social teaching in naming the harm and in relying on the social nature of the human person to promote authentic dialogue in the promotion of healing, human flourishing, and right relationship.

The work of restorative justice is also consistent with specific principles of Catholic social teaching that can bolster and guide restorative practices. For example, the dignity of the human person is furthered by restorative justice and its efforts to create a culture of listening that seeks true healing. Catholic social teaching's focus on the poor and vulnerable relates to restorative justice in that it invites those who have been marginalized by harm into a safe space to tell their story. The principle of subsidiarity is consistent with restorative justice as it seeks to redress the effects of harm and foster justice at the most appropriate organizational level. Lastly, the principle of solidarity is advanced by restorative justice through inviting those in healing circles to enter into the suffering and harm of another through active listening and empathy.

The clergy abuse crisis raises the challenging reality that the Catholic Church's present ecclesial culture has contributed to the transgression of Catholic social teaching principles in the maltreatment of and lack of solidarity with victim-survivors, and in the ecclesial culture's failure to hold Church leaders accountable. Examining decisions by Church leaders and the attendant harm of the crisis through the lens of Catholic social teaching leads one to a justly strong critique, but also provides a positive path forward. Restorative practices hold the potential to move a wounded Church from harm to healing. Greater accountability for Church leaders is needed to fulfill restorative justice's strong potential for healing for victim-survivors and the broader Church.

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53. See PONTIFICAL COUNCIL FOR JUST. & PEACE, COMPENDIUM OF THE SOCIAL DOCTRINE OF THE CHURCH, § 81 (2004).

54. *Id.* §§ 85–86, 160.

Pope Francis entered the global stage with his election as pope in March of 2013. Several initial actions the new pope took indicated that this was a new type of pontificate. For example, when it became clear in the conclave that he would be elected pope, his fellow cardinal and friend from Brazil told him to not forget the poor.<sup>55</sup> The new pope heeded the admonition of his friend and took the name of the beloved saint of the poor, St. Francis of Assisi. Pope Francis quickly eschewed many of the traditional trappings of the papacy, preferring a simpler lifestyle and choosing to reside with others in the *Domus Sanctae Marthae*, rather than in the papal palace. The early preaching, teaching, interviews, and first visits of Pope Francis also signaled a decisive shift in emphasis to radical discipleship and a new culture of inclusion for those on the margins of society.

Pope Francis's first trip outside the Vatican in the summer of 2013 seemed intentional and delivered an important message for the Catholic Church and the world. On the Italian island of Lampedusa, Pope Francis celebrated Mass for migrants throughout the world whose suffering impelled them to leave their homes, thus putting their lives in peril on the journey. In a stirring homily, the style of which is notably traced to the prophets of the Hebrew Scripture, Pope Francis decried a globalization of indifference, where we fail to hear the cries of our brothers and sisters.<sup>56</sup> In response to the suffering of migrants, Pope Francis called Christians to a globalization of solidarity and a new culture of encounter and accompaniment.<sup>57</sup> In a comprehensive interview in the fall of 2013, Pope Francis said that he wanted a poorer Church for the poor and likened the Church to a field hospital that needed to tend to the wounds and suffering of all.<sup>58</sup> Indeed, in the parable of the Good Samaritan from Luke's Gospel, the Church fathers saw the inn, where the beaten man is taken, as a symbol of the Catholic Church, where those who are suffering receive compassion and healing.<sup>59</sup> As the Catholic Church more robustly embraces restorative justice and restorative practices, the metaphor of the Church as an inn of healing can take on even greater significance for a world presently in need of deep healing.

Notwithstanding some notable missteps in responding to clergy abuse and in messaging, Pope Francis has experienced his own conversion, which occurred through in-depth conversations with victim-survivors, leading to a

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55. Gerard O'Connell, *The Cry of the Poor Is the Hope of the Church, Pope Francis Says, Closing Amazon Synod*, AMERICA: JESUIT REV. (Oct. 27, 2019), <https://www.americamagazine.org/faith/2019/10/27/cry-poor-hope-church-pope-francis-says-closing-amazon-synod>.

56. Pope Francis, Homily, *supra* note 3.

57. *Id.*

58. Antonio Spadaro, S.J., *A Big Heart Open to God: An Interview with Pope Francis*, AMERICA: JESUIT REV. (Sept. 30, 2013), <https://www.americamagazine.org/faith/2013/09/30/big-heart-open-god-interview-pope-francis>.

59. See JEAN DANIELOU, S.J., FROM SHADOWS TO REALITY: STUDIES IN THE BIBLICAL TYPOLOGY OF THE FATHERS 276–77 (Burns & Oats Ltd. trans., Newman Press 1960).

greater appreciation of the harm of clergy abuse and episcopal cover-up.<sup>60</sup> The restorative practice of victim-survivor testimonial, in his frequent conversations with Chilean and other survivors, led Pope Francis to a greater sensitivity to the effects of abuse and the dynamics of ecclesial corruption and a more resolute determination to hold bishops accountable for their failures.<sup>61</sup> The Anti-Abuse Summit in Rome held in February 2019 further demonstrated that restorative practices and victim-survivor testimonials effectively bring to light the awful reality of abuse and its pernicious effects, which in turn helps move Church leaders from abstraction to meaningful action.<sup>62</sup> More recently, the “McCarrick Report” compiled and released by the Secretariat of State of the Vatican relied upon interviews of multiple victim-survivors of Theodore McCarrick.<sup>63</sup> It is likely that the stories of these courageous victim-survivors greatly contributed to the unprecedented thoroughness and candor of the report.

It is hard to overstate the natural and potentially fruitful relationship between Pope Francis’s vision of a Church that goes out to the peripheries, including existential peripheries, and the healing work of restorative justice. The corollaries are manifold, including in confronting the harm that comes from abuse of power and the fruitful connection between the dynamics of restorative justice and the culture of encounter and accompaniment Pope Francis seeks to foster in the Church. The rich images Pope Francis provides of the Church as a field hospital and the Church as a tender mother may resonate strongly with those in need of healing, both in the Church and in society.<sup>64</sup> However, this potential connection between the goals of restorative justice and the vision of Pope Francis will bear fruit only when greater accountability for Church leaders is more fully integrated into the culture of the Catholic Church. To talk about the Church as a source of healing while at the same time leaving unreformed an ecclesial culture that so often produces harm is a contradiction. Perhaps the most important attribute that the ministry and experience of Pope Francis and restorative justice share is the surpassing value of experience and attendant truth that emerges when we take the time to listen to the story of others and accompany them on their journey to greater healing. The power of experience and story will be more fully explored in the penultimate section of this article.

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60. See AUSTEN IVEREIGH, *A Church of Wounds, in WOUNDED SHEPHERD: POPE FRANCIS AND HIS STRUGGLE TO CONVERT THE CATHOLIC CHURCH* 100–48 (2019).

61. *Id.*

62. See Joshua J. McElwee, *Exclusive: Cupich, Scicluna Say Vatican Should Give Reasons When a Bishop Is Sacked*, NAT’L CATH. REP., Feb. 27, 2019 (reporting that both bishops credited the presence of victim-survivors, who “made the meeting”).

63. See SECRETARIAT OF STATE OF THE HOLY SEE, REPORT ON THE HOLY SEE’S INSTITUTIONAL KNOWLEDGE AND DECISION-MAKING RELATED TO FORMER CARDINAL THEODORE EDGAR MCCARRICK (Nov. 10, 2020).

64. See Spadaro, *supra* note 58.

### III. THE USE OF RESTORATIVE JUSTICE IN ST. PAUL AND MINNEAPOLIS AND BEYOND

In June 2015, the Ramsey County Attorney's Office (RCAO) in St. Paul, Minnesota, brought criminal charges and a civil petition against the Archdiocese of St. Paul and Minneapolis (ASPM) for its failure to protect children.<sup>65</sup> The charges and suit brought against the ASPM were an unprecedented action in the United States. The steps Ramsey County took followed a robust investigation that had, among other goals, the transformation of the ASPM's culture.<sup>66</sup> The cultural conversion that occurred in the archdiocese is confirmed and attested to in detail by a January 2020 Cultural Assessment Report that the RCAO undertook.<sup>67</sup> The specific dimensions of this conversion of culture hold promise for the broader Church as the need for significant cultural change is a pressing one for the universal Catholic Church. The dimensions of the turnaround in the ASPM also signal the potential for the effective use of restorative justice and restorative practices to help bring healing to victim-survivors and a wounded Church.

The charges and suit brought in June 2015 led to months of lawyering and negotiation, which resulted in a landmark settlement in December 2015. I have noted previously how important ethical and big-picture lawyers are to the cultural conversion required of the Catholic Church. The positive impact of big-picture lawyers is a message I deliver frequently to the law students I teach. Fortunately, there was an abundance of these type of lawyers involved on both sides of the case, which led to the sensible and prudent settlement. At an April 2019 conference hosted by Georgetown University, "Law, Lawyers and the Clergy Abuse Crisis," lawyers for the ASPM spoke about the importance of the creative lawyering that positively contributed to the landmark settlement, noting that without it, litigation would likely still be ongoing.<sup>68</sup> I credit a number of big-picture lawyers on both sides of the case in arriving at a settlement of the case, and colleagues who encouraged the creative use of restorative justice in response to clergy

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65. News Release, Off. of the Ramsey Cnty. Att'y, Archdioceses of St. Paul and Minneapolis Criminally Charged with Multiple Counts of Failing to Protect Children (June 5, 2015), <https://www.ramseycounty.us/sites/default/files/Archdiocese%20criminally%20charged%20with%20multiple%20counts%20of%20failing%20to%20protect%20children.%20%281%29.pdf>.

66. John Choi, Ramsey Cnty. Att'y, Press Conference: RCAO Announces Charges Against Archdiocese (June 5, 2015).

67. THOMAS E. RING & STEPHANIE L. WIERSMA, OFF. OF THE RAMSEY CNTY. ATT'Y, RCAO CULTURAL ASSESSMENT REPORT: THE IMPACT OF THE RAMSEY COUNTY ATTORNEY'S SETTLEMENT AGREEMENT ON THE ORGANIZATIONAL CULTURE OF THE ARCHDIOCESE OF ST. PAUL AND MINNEAPOLIS (Jan. 28, 2020). In a forthcoming law journal article examining the culture change in the ASPM as a case study, I arrive at similar conclusions as Ring and Wiersma regarding the critical factors of the culture change, including professional and competent lay professionals, inclusive and competent episcopal leadership, objective standards of safe environment that are vigorously applied, and the use of restorative practices to help heal the harm of clergy abuse.

68. Joseph Dixon, Att'y, Remarks at Panel Discussion at Georgetown Law Roundtable: Law, Lawyers and the Clergy Sexual Abuse Roundtable (Apr. 9, 2019).

abuse. In a move that would prove novel and effective in promoting this healing, John Choi introduced a specific restorative justice provision into the settlement agreement with the ASPM.<sup>69</sup> This bold stroke paved the way for the successful use of restorative practices in the archdiocese and its parishes in the succeeding years.

Including the restorative justice provision in the settlement opened the door for the abundant use of restorative justice and restorative practices in the archdiocese as a response to the harm of clergy abuse. It also introduced archdiocesan leaders to experienced and respected restorative justice practitioners Janine Geske and Mark Umbreit. Geske's biography is described in detail above. Dr. Umbreit is the founding director of the Center for Restorative Justice and Peacemaking at the University of Minnesota. Like Geske, Umbreit has traveled the world bringing the positive message of restorative justice to complex situations. He has expertly facilitated the use of restorative practices toward greater healing and peaceful conflict resolution. I met Janine Geske for the first time in the fall of 2015 and Mark Umbreit the following fall, as the parish I lead was one of three archdiocesan parishes invited to pilot a new program in restorative justice. Geske is a natural storyteller, and as I listened to her vivid and powerful accounts of restorative justice, I was viscerally drawn to the concept and its potential for healing. Like Geske, I have followed a vocational call to become more involved in the vital work of restorative justice.

The initial restorative justice provision of the settlement agreement, the engagement of experts like Umbreit and Geske, and the initiation of the new pilot parish program led to use of restorative justice and restorative practices that went well beyond what John Choi anticipated when he first pondered what a cultural change in the ASPM might look like. In the succeeding years, restorative justice has been abundantly employed in the archdiocese in response to the crisis of clergy abuse. For example, several archdiocesan parishes hosted restorative justice programming; Geske and Umbreit were tapped for multiple talks and programs, including facilitating healing circles; a new restorative justice working group was formed that includes multiple victim-survivors; programs featuring victim-survivor testimonials were hosted; restorative justice outreach to priests and seminarians was initiated; two new archdiocesan restorative justice positions were created; the development of multiple restorative justice programming op-

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69. See Stipulation to Stay Proc. at ¶¶ E, F, 13.8, In the Matter of the Welfare of Victim-1, No. 62-JV-15-1674 (Minn. 2d Jud. Dist. Juv. Ct. Div. Dec. 18, 2015). Paragraph 13.8 established a new ombudsperson who is to serve as an independent advocate for victim-survivors of clergy abuse. The ombudsperson helps facilitate restorative justice and healing by accompanying and listening to the stories of those who have suffered abuse and trauma. The inaugural ombudsperson was the late Tom Johnson, who was succeeded in May 2020 by Victoria Newcome Johnson. In addition to advocating for victims and doing education outreach, Newcome Johnson also sits on the restorative justice working group.



tions for parishes was daylighted; and the archdiocese and RCAO jointly hosted a restorative justice conference in January 2020.

What is described above is an organic, “all of the above” approach that required a healthier and more life-giving ecclesial culture—one that is more humble, open, creative, and consistent with biblical and Catholic teaching. Perhaps more than anything else, this deep dive into restorative justice and restorative practices helped foster an archdiocesan response to clergy abuse that is accurately described as victim-survivor centered and Christ centered. Victim advocates who work closely with victim-survivors are resolute that a victim-survivor-centered approach is integral to greater healing and health within the Catholic Church.<sup>70</sup> This is the way of compassion, accompaniment, and healing—this is the way of Christ.

In further contemplating the need for a Christ-centered Church and the connection to restorative justice, the twenty-fifth chapter of Matthew’s Gospel offers a challenging and stirring summons to Christian disciples.<sup>71</sup> It invites disciples to live faith in an authentic way and to see Jesus in those who are suffering on the margins. In the New Testament, Christ most closely identifies his presence with the Eucharist in John 6, with persecuted members of the Church in the Acts of the Apostles, and with those who are suffering on the margins in Matthew 25.<sup>72</sup> It is not a cognitive leap or a leap of faith to add the category of those abused to Matthew’s list of marginalized—I was abused, and you abandoned me. The wounded Christ is surely present in those who were abused by clergy. It is Christ himself who was abandoned when Church leaders ignored the suffering of victim-survivors. The story of the Archdiocese of St. Paul and Minneapolis is the story of transformation where victim-survivors moved from being ignored and maltreated to integrally involved in the Church’s response to the harm of clergy abuse.

Other Gospel passages also illustrate the shift in the ASPM from injustice and harm to healing and compassion. For example, the story of the Good Samaritan applies with powerful relevance to those who not only were abused by priests of the Church but also were then left on the side of the road by the very same Church that caused their pain.<sup>73</sup> As in Matthew 25, those who were abused were ignored and unattended by the very Church that was supposed to offer compassion and healing. A victim advocate, the late Tom Johnson, refers to this troubling dynamic regarding vic-

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70. See Barbara Thorp & Tom Johnson, Victim Advocates, Comments at Panel Discussion at Georgetown Law Roundtable: Law, Lawyers and the Clergy Sexual Abuse Crisis (Apr. 9, 2019) (both noted how important a victim-survivor-centered response is to needed culture change and healing in the Catholic Church).

71. See *Matthew* 25:31–46 (New American Bible, St. Joseph ed.).

72. See, e.g., *John* 6:52–59; *Matthew* 25:31–56; *Acts of the Apostles* 9:1–31 (New American Bible, St. Joseph ed.).

73. See *Luke* 10:25–37 (New American Bible, St. Joseph ed.).

tim-survivors as an inversion of the moral order.<sup>74</sup> Pope Francis and many commentators have pointed to the harm caused by the present ecclesial culture, which has become anemic, thus inhibiting the mission of the Church and its fundamental call to serve and heal those who suffer.<sup>75</sup> This is precisely where restorative justice holds such power and potential—as an alternative way of being and acting—it invites all into dialogue where everyone is on equal footing. All are invited to tell their story and to be accompanied on their journey to greater healing wholeness. Restorative justice is effective in responding to the harm of clergy abuse and the ripple effects of episcopal malfeasance and cover-up because it is pure Gospel—it takes up the perpetual call of Christ to lift up and heal those who have been wounded and broken. Justice understood as right relationship encompasses answering this enduring call of Jesus to see and serve him in the marginalized and to help foster greater healing and restoration. The effective use of restorative justice in helping heal the harm of clergy abuse and its ripple effects in the ASPM is rooted in biblical truth.

Another aspect of the effective use of restorative justice to help heal the harm of clergy abuse in the ASPM can be traced to its fundamental tie to experience—both the experience of pain and trauma and the experience of greater healing and wholeness. Epistemology is the theory of knowledge and the philosophy of knowing.<sup>76</sup> One of the most important ways of knowing truth is through experience. For example, John McCain understood the moral depravity of torture in part because he had experienced it. Similarly, Dr. Martin Luther King Jr. speaks powerfully about the searing effects of segregation in his famous *Letter from a Birmingham Jail* from his experience and the collective experience of African Americans in the United States.<sup>77</sup> What was often lacking among Church leaders was the effort to listen to the stories and experiences of victim-survivors. This privation fostered ignorance and frustrated a deeper appreciation for the deep harm victim-survivors experience.

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74. Tom Johnson, Victim Advocate, Comments at Panel Discussion at Georgetown Law Roundtable: Law, Lawyers and the Clergy Sexual Abuse Crisis (Apr. 9, 2019) (regarding the inversion of the moral order, which has occurred in the treatment of victim-survivors by some Church leaders).

75. See AUSTEN IVEREIGH, *A Sinner's Mission*, in *WOUNDED SHEPHERD: POPE FRANCIS AND HIS STRUGGLE TO CONVERT THE CATHOLIC CHURCH* 5–24 (2019); *Mediators Not Middlemen*, in *WOUNDED SHEPHERD*, *supra*, at 45–68; *A Church of Wounds*, in *WOUNDED SHEPHERD*, *supra*, at 100–48; *Close and Concrete*, in *WOUNDED SHEPHERD*, *supra*, at 149–92; *This Turbulent Family*, in *WOUNDED SHEPHERD*, *supra*, at 247–76; *Mercy and Its Discontents*, in *WOUNDED SHEPHERD*, *supra*, at 277–314. See also Tom Roberts, *Leadership Roundtable Brings a Dose of Reality to the Church*, NAT'L CATH. REP., Mar. 11, 2020.

76. *Epistemology*, OXFORD REFERENCE, <https://www.oxfordreference.com/search?q=epistemology> (last visited Oct. 10, 2020).

77. Martin Luther King Jr., *Letter from a Birmingham Jail*, AFR. STUD. CTR., UNIV. PA. (Apr. 16, 1963), [https://www.africa.upenn.edu/Articles\\_Gen/Letter\\_Birmingham.html](https://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html).

The epistemology of experience has been an important dimension of Pope Francis's approach to social issues during his pontificate, as he has consistently invited Catholics and people of goodwill to walk with the poor and marginalized and accompany them in their just desire for a life of human flourishing.<sup>78</sup> It was the vast experience of then Archbishop Jorge Bergoglio walking beside, serving, and learning from the poor in the *favelas* of Buenos Aires that led Pope Francis to his own pastoral conversion and his call for greater conversion within the Catholic Church.<sup>79</sup> Experience is also an important source of truth as it relates to Catholic social teaching. The truth of the inherent dignity of all persons and the experience of its privation through structures of sin helps inform the particular approach of Catholic social teaching to contemporary issues. When one starts from and is open to the experience of another, a pathway opens up—a path to greater knowledge, wisdom, and compassion. Similarly, the embrace of experience that is fundamental to restorative justice is an important component in the success of restorative practices in healing harm and has been fundamental to their effective use in the Archdiocese of St. Paul and Minneapolis.

Before I move next to the section that illustrates via narrative restorative justice's effectiveness in response to clergy abuse, I will briefly describe how restorative practices have been used in the ASPM. My journey into restorative justice began at about the same time as those of other archdiocesan leaders. Upon first meeting Justice Geske, I sat spellbound as I listened to her passionately recount in vivid detail the power of restorative justice to bring healing to the most difficult situations. Her powerful stories and wisdom have been consistent with my experience of restorative justice over the past four years in the archdiocese, and in teaching restorative practices to law students. The integration of restorative justice into the broader culture change and healing in the archdiocese has been intentional, prudent, and organic. First, restorative justice in the ASPM has led to the creation of a culture that is victim-survivor centered. This has occurred over time and with purpose, as victim-survivors are members of a restorative justice working group and the ministerial standards review board, help advise archdiocesan leaders, are employed in critical chancery positions, and take part as speakers at various restorative justice events. As stated previously, a victim-survivor-centered approach is the only effective way forward for the Catholic Church as it seeks to move from crisis to conversion and from harm to healing. The story of St. Paul and Minneapolis has shown that this is possible.

A number of examples demonstrate how the ASPM has utilized well the perspective and courage of victim-survivors in its restorative justice

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78. See Pope Francis, Homily, *supra* note 3.

79. See, e.g., IVEREIGH, *Close and Concrete*, in *WOUNDED SHEPHERD*, *supra* note 75, at 149–92.

programming. One of the most compelling restorative practices is a victim-survivor testimonial. Victim-survivor testimonials have been used in a variety of settings in the archdiocese, including in a penitential prayer service at the Cathedral of St. Paul, in the parish setting where the story and experience of the victim-survivor is the centerpiece of a restorative justice program, and in a video presentation to priests where a victim-survivor powerfully tells his story. This final example elicited great emotion as many of the priests in attendance as well as the archbishop were brought to tears. Additionally, victim-survivors are invited to tell their story to the archbishop in private meetings, to appropriate archdiocesan staff, and to the independent ombudsperson appointed in the archdiocese. The testimonials of victim-survivors are a powerful source of truth that can help guide the Church to greater integrity. For example, those who planned the February 2019 Anti-Abuse Summit in Rome encouraged bishops planning to attend to meet first with victim-survivors.<sup>80</sup> Hearing the stories of victim-survivors makes the harm they suffered a reality instead of an abstraction for Church leaders, which is a critical step in fostering greater accountability in the Catholic Church and greater healing for all.<sup>81</sup>

Much of the restorative justice programming in the ASPM focuses on the peripheral harm that many Catholics have experienced as a result of the twin crises of clergy abuse and cover-up. Occasionally, those who have gathered in circles in the archdiocese have spoken about the direct harm of abuse they have experienced, but most of those in circles have spoken about the ripple effects of the Church crises of abuse and cover-up. The circle process has been effectively used in a number of settings, including in parishes, the chancery office, and the seminary, and among priests. Healing circles are one of the oldest and most effective restorative practices used in response to harm. It is important that circles are led by trained facilitators who can explain what a healing circle is and guide the circle experience. In healing circles, a talking piece is passed from one person to another, which signals that the person holding the piece, and only that person, is to talk. Everyone in the circle is invited to speak, but no one is expected to speak. As a person in the circle is speaking, the others are encouraged to actively and respectfully listen as the person tells his or her story. The restorative justice leader makes clear to those in the group that they are not to challenge or rebut the story of another in the circle. The role of those who are not speaking is to actively listen and accompany the person who is telling his or her story.

The circles that have been used in the ASPM and outside the archdiocese have been consistently moving and effective. Frequently, those in the

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80. Cindy Wooden, *Bishops Asked to Meet Abuse Survivors Before February Meeting*, NAT'L CATH. REP., Dec. 18, 2018.

81. See McElwee, *supra* note 62.

circle experience a powerful dynamic—a dynamic that is spiritual and human and promotes healing and restoration. In restorative justice’s use in the present crisis, the central question that has been posed to those in the circle is this: “How has the clergy abuse crisis affected you and your faith?” Consistently, those who have led restorative justice sessions, including circles, hear that Catholics are deeply pained by the failures of some Church leaders, but also encouraged that other leaders are acknowledging the harm of abuse and inviting Catholics and victim-survivors to share their stories. Recently in the Diocese of Wheeling, West Virginia, which has been deeply wounded by episcopal misconduct, the use of restorative justice to help acknowledge the harm and heal the pain led one person to movingly remark, “We finally have hope.”<sup>82</sup> The restorative practice of healing circles holds strong potential in the Catholic Church and beyond to effectively respond to trauma and its attendant effects.

In the summer of 2019, the archdiocese created two new positions to help facilitate the greater use of restorative justice and restorative practices. My colleague Paula Kaempffer serves as the outreach coordinator for restorative justice and abuse prevention, and I was appointed liaison for restorative justice and healing in the archdiocese. Kaempffer and I work together as co-chairs of a restorative justice working group and in developing and implementing restorative justice programming throughout the archdiocese. With input from the restorative justice working group and others, Kaempffer created a list of programming options for parishes, which are tailored to the particular pastoral needs and culture of each parish.<sup>83</sup> Parishes have begun engaging Kaempffer, other archdiocesan leaders, and me to host meaningful restorative justice programs where those present can learn more about restorative justice and its potential for healing. In many of these programs, attendees are also invited to learn about and experience healing circles for the first time.

One of my main duties as liaison is to go out to parishes, approximately once a month, to preach about restorative justice at the weekend masses and to lead listening sessions, healing circles, or both. This experience has been powerful and encouraging, but also sobering, as it becomes clear that many Catholics are dismayed and suffering as a result of the failures of leadership and the lack of care for victim-survivors. The ministry of preaching allows me to briefly present what restorative justice is and its biblical and theological foundations and to explain how restorative justice

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82. Mother of a Victim-Survivor, Comments at the Wheeling University Restorative Justice & the Abuse Crisis in the Catholic Church Conference (Feb. 26–27, 2020) (sharing her gratitude and attendant hope in response to our presence in Wheeling and in accompanying those who had experienced direct or peripheral harm from the twin crises of abuse and cover-up).

83. See ARCHDIOCESE OF ST. PAUL & MINNEAPOLIS, *Restorative Justice Offerings for Parishes* (2019), [https://safe-environment.archspm.org/wp-content/uploads/2020/01/2019\\_OMSSE\\_Offerings-for-Parishes-Brochure3.pdf](https://safe-environment.archspm.org/wp-content/uploads/2020/01/2019_OMSSE_Offerings-for-Parishes-Brochure3.pdf).

can foster greater accountability and healing in the Church. One man memorably said, “There can be no restorative justice without accountability.”<sup>84</sup> Indeed, this is true. This new role has also taken me beyond the archdiocese, to the Duluth and Bismarck dioceses, where I have preached on restorative justice, and to San Antonio, Milwaukee, and West Virginia, where colleagues and I recently led restorative justice programming in the aforementioned diocese of Wheeling. Additionally, Paula Kaempffer and I have both fielded numerous inquiries from dioceses around the United States seeking to learn more about restorative justice and how it has been implemented in the ASPM. The story of restorative justice and its positive potential to bring greater healing to a wounded Church is starting to spread.

In furtherance of the broader effective use of restorative practices in the Church, one of the most important tasks is to overcome the significant knowledge gap that exists regarding restorative justice. More than a few Catholics dismiss restorative justice out of hand, without first learning what it is, its consistency with Catholic thought, and its effectiveness in healing harm. The bishops of the United States would do well to educate themselves at an upcoming USCCB meeting about restorative justice and its potential uses. Another way in which restorative justice can be positively employed toward healing is to help Catholics delve into their own wounds, some of which are self-inflicted and some of which have been inflicted by others. There are many wounded people inside and outside the Church who can be helped by restorative practices. Finally, the possible use of restorative practices in a broader truth and reconciliation process has been raised frequently, including by Notre Dame scholar Dr. Daniel Philpott, who is an expert in the field.<sup>85</sup> Restorative practices employed within this larger truth and reconciliation model are a potentially bold and fruitful move for a wounded Church seeking greater health and healing. A grassroots effort to use restorative practices to advance the noble goals of truth and reconciliation would need to be embraced by Catholic leaders who have not been historically open to acknowledging harm. The keys to the future effective use of restorative justice and restorative practices in the broader Church are openness, education, and humility.

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84. Catholic Church Member, Comments at the St. Agnes Catholic Church Restorative Justice Outreach Session (July 2019). At a listening session after mass, this church member leaned in and with resolute determination and clarity said, “There can be no restorative justice without accountability.” I have incorporated his comment in my preaching and speaking on restorative justice.

85. See Inés San Martín, *Scholars Seek to Establish ‘Truth and Reconciliation’ Structures for Clerical Sexual Abuse*, CRUX (July 28, 2020), <https://cruxnow.com/church-in-the-usa/2020/07/scholars-seek-to-establish-truth-and-reconciliation-structures-for-clerical-abuse/> (Dr. Daniel Philpott and Dr. Katharina Westerhorstmann are planning a day-long consultation of practitioners and scholars on the potential use of truth and reconciliation models in response to clergy abuse.).

## IV. THE EPISTEMOLOGY OF EXPERIENCE AND THE POWER OF STORY

Nothing more powerfully conveys the effectiveness of restorative justice than hearing victim-survivors' stories of their personal experiences of its healing power or hearing restorative justice practitioners' stories of inspiration and hope. Those who are open to the experiences of another and who seek to accompany others on their search for healing are better able to glean the truth about the nature of harm and the deep desire of victim-survivors for restoration. One knows what is true through experience, including the truth disclosed through the experience of another. I am reminded here of the wise words of Pope Francis that reality is more important than ideas.<sup>86</sup> This is what restorative justice delivers time and time again—the reality and nature of harm and the possibility of healing. Powerful stories of victim-survivors serve the important purpose of breaking through ignorance and apathy. This in turn leads to enlightenment as to the nature of harm and its effects as well as the healing that comes from justice and accountability for those who have caused harm. No one I have encountered in the work of restorative justice is a more gifted storyteller than Janine Geske. Geske puts the vast collection of stories that are part of her work to good use in promoting healing and restoration.

In preparation for this law journal article, I interviewed Geske about her work in the field of restorative justice. She responded not with abstraction or lofty sentiment, but with concrete experiences and powerful stories about the effectiveness of restorative justice to heal harm. The first story she told me involved a trip she took to Nigeria to present on restorative justice.<sup>87</sup> A priest approached Geske at a conference she was leading. He was pastor of a mammoth parish in Lagos. The parish was suffering and divided because of a sexual assault that had taken place on parish property that was perpetrated by a young man, a parishioner, against a young woman, also a parishioner. Officials had not charged the young man in the case, and the assault had become a source of significant division in the parish.

The pastor inquired of Geske about the possibility of employing restorative practices to help foster accountability and reconciliation. The families of the perpetrator and the victim agreed to meet, and through a powerful encounter, the young man admitted that he had committed the assault. The young woman was able to tell her story: how she felt, the impact of the assault, and the shame of everyone knowing about it. The perpetrator's family apologized to the victim and her family, and at one point in the meeting, the young man knelt down in front of the victim and apologized. The young woman and her family forgave him and together worked out consequences,

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86. POPE FRANCIS, *EVANGELI II GAUDIUM*, §§ 231–233 (Nov. 24, 2013).

87. Interview with Janine Geske, Bd. of Tr. Member, Marquette Univ. L. Sch. (May 27, 2020).

which included his absence from the parish for a period of time. Geske conveyed the restorative nature of this experience from the standpoint of the victim-survivor who had the opportunity to tell her story; to see her perpetrator accept responsibility; and through her own power, to freely choose to forgive him. The parish community that had experienced division also began to heal when news of this grace-filled meeting reached the parishioners.

The second story that Geske told me involved a trip to Rome. She was invited there to teach restorative justice to a group of students from around the world in the child protection program developed by Fr. Hans Zollner, SJ, which is part of the Gregorian Jesuit University.<sup>88</sup> Geske's presentations on restorative justice almost always involve an interactive experience with healing circles where those in the circle are invited to respond to a particular question posed by the facilitator. On this occasion, Geske invited the participants to speak about how they had been affected by the abuse crisis in the Catholic Church, either directly or peripherally. She was surprised by the flood of emotional stories that were shared from around the globe. The stories involved multiple incidents of abuse by priests and nuns that had caused significant harm to victims, families, and parishes. One individual talked about children who would be taken from their families for the weekend or overnight and sexually abused by a priest or nun. Upon returning to the community, the child would suffer even more trauma as he or she would be made fun of and shamed by the other children. Harm was also experienced by those who had learned about the abuse but felt powerless to do anything about it. In the healing circle, the students now had the opportunity to tell their stories. Many in the circle found peace in telling their stories and in knowing that they were not alone.

The final story Geske told me involved a young man in Wisconsin who had enlisted in the military and was preparing to leave for boot camp.<sup>89</sup> His family had thrown him a party, and as they were gathered to celebrate, another young man who was intoxicated drove his car into the crowd, severely injuring the recently enlisted young man. The injuries he sustained disqualified him from military service, and as a result he had fallen into depression. Both the victim-survivor and the offender were open to a restorative process and dialogue. In their powerful encounter, the victim brought the rod that had been inserted into his leg and gave it to the offender so he would not forget what had been caused by his actions. Moved by this, the offender acknowledged the harm and took responsibility. He also shared his own story about his challenging experience in jail as a result of the incident. The two young men acknowledged that they might have become friends had they met through different circumstances. As they shared many inter-

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88. *Id.* See CENTRE FOR CHILD PROTECTION, <https://childprotection.unigre.it> (last visited Oct. 10, 2020) (Fr. Hans Zollner's groundbreaking center for child protection).

89. Geske, *supra* note 87.



ests and life experiences, they agreed to schedule a fishing trip together. Geske, who facilitated the dialogue, said to watch the humanity of these two men unfold through this dialogue and watch something positive come out of deep harm spoke to the miracle of restorative justice.

#### V. CONCLUSION: FUTURE USES OF RESTORATIVE JUSTICE TO HELP HEAL HARM

Restorative justice and restorative practices are effective in helping heal both the direct harm of clergy abuse and cover-up and the peripheral harm that these crises have caused throughout the Catholic Church. Restorative justice is rooted in the social nature of the human person and the universal desire for flourishing and wholeness. Victim-survivors are invited to tell their story of the harm they have experienced and its effects. Others in the healing circle are invited to accompany them on their journey through active listening and empathy. When offenders and leaders of institutions that have caused harm hear the powerful stories of victim-survivors, greater awareness as to the nature of trauma and accountability is fostered. However, my colleague at St. Thomas Amy Levad has cautioned that it is not assured that restorative justice will lead to transformative justice.<sup>90</sup> Notwithstanding this relevant open question, restorative justice is particularly effective in Catholic settings because of its consonance with biblical justice, the healing ministry of Jesus Christ, and the principles and goals of Catholic social teaching.<sup>91</sup>

Finally, in addition to the strong biblical and theological consonance with restorative justice, the application of restorative practices to the harm of clergy abuse has proven effective. The groundbreaking work of Justice Janine Geske and the recent experience in the Archdiocese of St. Paul and Minneapolis strongly demonstrate that restorative justice holds great potential to help heal the harm of clergy abuse and its ripple effects. Looking beyond the Catholic Church to issues of injustice and disparities that have been laid bare as a result of COVID-19 as well as the persistent issues of racial injustice that continue to afflict the United States, restorative justice holds similar potential for naming harm and promoting inclusion, accompaniment, and healing. If the Catholic Church embraces the call for deep reform and greater accountability, a restored Church can more effectively

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90. See Amy Levad, *Restorative Justice and Transformative Justice in a Land of Mass Incarceration*, 5 J. OF MORAL THEOLOGY 22, 22–43 (June 1, 2016).

91. See Fr. Daniel Griffith and Hank Shea, *Restorative Justice, Law and Healing*, Course at the University of St. Thomas School of Law. This new law course is the first of its kind in Minnesota and teaches students principles and uses of restorative justice in the legal field and beyond. The course also exposes students to healing circles and invites them to share their own stories of harm and healing. Professor Shea and I have been moved by the experience of the students, their openness, and the natural relationship between restorative justice and Catholic teaching.

work to be an instrument of healing and restoration for a wounded nation and world.