From England

THEMES OF RESTORATIVE JUSTICE FOUND IN THE STORY OF ZACCHAEUS

by Cherie Booth QC

I've been sitting as a part time judge for ten years now and for me the most difficult part of the process is the sentencing. The defendant faces me from the dock while I explain to him (and it is usually a him) why he's going to jail. He may listen carefully but I often wonder whether he feels any remorse for his crime or has any idea of the effect he's had upon his victims. This impression has been reinforced when I've visited prisons and spoken to inmates. It seems that neither the court process nor the prison experience is helping them confront their behaviour or its consequences.

And, of course, we must never forget the victims of the crime. Too often they sit in the public gallery - feeling marginal to the case, even bemused by what's happening. They're often denied the opportunity to confront the defendant directly with what he's done, nor given the chance, where he's genuinely sorry, to receive a personal apology.

All this can make it harder for them to achieve the closure they need - no matter how severe the sentence.

And it's right and proper that tough sentences are handed down in court for serious crimes or persistent offenders. Imprisonment shows society's disgust at their actions and helps protect the public by keeping criminals off the streets. But it's clear that simply locking people up doesn't itself alter their long-term behaviour. In too many cases, it only shelves the problem.

Britain's criminal justice system, of course, has been shaped by its Judaeo-Christian tradition. Often this tradition has been seen as punitive, advocating a retributive model of justice in which an angry God - or state - takes revenge on the offender for his crimes.

But there are seeds in the Bible of a very different approach - an approach known as restorative justice that has been pioneered in countries like New Zealand and Australia. It's now gaining ground in the UK, where it's increasingly used in youth justice as an alternative to the courts and in the adult justice system as an addition to the court process.

The approach of restorative justice is to see the offending behaviour not just as a crime but as a breach of a relationship; the relationship we all have as individuals with others in our communities. It emphasises repairing the harm caused by anti-social or criminal behaviour, holding offenders to account before their victims and often resulting in them making some kind of reparation.

In biblical terms it aims to create "Shalom" - a word which in Hebrew means peace, but which is best translated by the English word Justice.

Restorative justice has been in the news recently because of the publication of the Sherman report from the Smith Institute, which advocates its wider take-up in the UK. But the Christian season of Lent is also a good time to consider how to deal with offenders. Lent is the time for righting wrongs and reconciling relationships. It doesn't soft pedal on sin, but its focus is on how to make a fresh start rather than on how to get even.

Those of my generation who went to Church as children will remember the gospel story of Zacchaeus, and maybe even the actions which went with the Sunday school song we used to sing about him. It's the story of the "very little man" who climbs into a sycamore tree to get a glimpse of Jesus, and ends up taking him home for tea. But there's a whole other dimension to this tale that only really dawned on me as an adult - because actually this is a story about restorative justice.

They went into Jericho and passed through. There was a man named Zacchaeus, a chief tax collector who was very rich. He was trying to see who Jesus was, but, being a small man, he couldn't, because of the crowd. So he ran on ahead, along the route Jesus was going to take, and climbed up into a sycamore tree to see him.

When Jesus came to the place he looked up. "Zacchaeus," he said, "Hurry up and come down. I have to stay at your house today." So he hurried up, came down and received him with joy.

Everybody began to murmur when they saw it. "He's gone in to spend time with a proper old sinner!" they were saying. But Zacchaeus stood there and addressed the Master, "Look, Master," he said, "I'm giving half my property to the poor. And if I've defrauded anyone of anything, I'm giving it back to them four times over." And Jesus said, "Today salvation has come to this house, because he too is a son of Abraham."

He may be a Sunday school favourite, but Zacchaeus was also a master in white collar theft. Tax collectors were outcasts in society - not just because they were collecting money for the Roman Empire, but because they appear to have been lining their own pockets at the same time. And as a chief tax collector we can assume that Zacchaeus was masterminding the whole racket.

In calling him down from the tree, Jesus is engineering a meeting between Zacchaeus and the people he has wronged. Initially, the crowd is outraged with Jesus for befriending a man whose behaviour has spread fear and mistrust even amongst those he hasn't stolen from directly. And who can blame them?

There follows a series of meetings between Zacchaeus and his individual victims as he visits them to repay what he has stolen. These are glossed over in the gospel, there are no details - but I don't think we're talking cosy fireside chats here. It must be very uncomfortable for Zacchaeus to hear first hand what it feels like to be on the receiving end of his extortion.

Such face to face meetings between offenders and victims lie at the heart of the restorative justice process. The focus begins with the victims as they are encouraged to talk about the effect the crime has had on them. Then it is the turn of the offender to talk about why he committed the crime, what led up to it and how he feels about it now.

Initially victims may wish to simply pour out their anger and resentment. Sooner or later, however, nearly all want an answer to the question, "Why me?" Most crime is random, but the victim often fears that they were deliberately targeted and might be again. The reassurance that that was not, in this sense at least, personal is evident in nearly all restorative justice meetings and helps the victim move on.

It's not appropriate to hold such meetings where the offender continues denying his guilt. And even where he has admitted his wrongdoing he may still approach a meeting with his victim with little sense of remorse, wanting to deny responsibility or to claim mitigating circumstances.

But it's not so easy to deny the consequences of your actions when your victim is sitting across the table from you. Rationalisations such as "they asked for it", "it wasn't worth much anyway", tend to fall away in the face of injured human flesh and blood.

Part of the hope for the meeting, therefore, is that an experience of remorse and acceptance of responsibility will grow through the offender's encounter with the victim, that the realisation of the harm they have done may indeed be

a kind of revelation. This was certainly the experience of one career criminal, Paul. Paul agreed to meet one of his victims, a doctor whom he had burgled, (and) who broke down in tears during the meeting. It marked a turning point in Paul's life. "I was thinking, I can't believe this; I am the cause of this man's pain. Suddenly I'm hearing the destruction I have caused. I could hardly speak for a week after the conference. The guilt was unbelievable."

Similarly when faced with what he had done, Zacchaeus' immediate impulse was to make some reparation to his victims, paying them four times the amount he'd stolen from them. And the idea of reparation is a key element in the Restorative Justice process. However, the most effective form of reparation is usually, simply, a genuine apology. It's the single most important thing a victim values.

As President of Barnardo's - a charity which does wonderful work with young people - I have seen for myself how they use restorative practices to alter behaviour by bringing home to youngsters the impact of what they do.

Fifteen-year-old Andy from Newry in Northern Ireland was brought before the court for attempting to attack the police. As part of a Community Responsibility Order, he met with police, fire service and ambulance crews who told him what it's like to be under attack from hooligans when they are trying to save lives. Andy began, for the first time, to appreciate the risks they took and the impact of his behaviour. He wrote a letter of apology to the police and joined the Fire Brigade cadets for a six week programme on public safety.

The programme also helped Andy look at the things in his life which made him angry and develop ways of coping with these - within his family, where both his parents had problems with substance misuse, and at school, where he was frequently in trouble.

Andy is accepting responsibility for his actions - but there's another way to look at this. The community is accepting its responsibility for Andy as well. All too often society wants to draw a "them and us" line between offenders and victims without recognising that offenders are often victims themselves. We can't ignore the facts that over a half of all 15-17 year olds in custody and a third of all prisoners have been in care at some point in their lives. Nor that the majority of women in prison say they've been victims of domestic or sexual abuse. The Archbishop of Canterbury recently called on society to recognise the part it has to play in the journey of reform and rehabilitation that the offender needs to embrace.

Because that has to be the fundamental goal of the criminal justice system. Those who have been through our courts and prisons need to be helped to return to society as full and contributing members. Just as Zacchaeus was restored to the community of the children of Abraham, and went on, we can assume, to live a useful (decent?) life.

Some, I know, will say it makes for a nice ending to a Bible story, but isn't it just plain naïve to suggest that the principles of restorative justice can work for 21st century Britain? The evidence is that they can. Not with everyone, of course, but they can work even with those who at first sight might appear hardened, serial criminals, those who might be branded no-hopers. In fact, evidence from the recent Sherman Report suggests that the restorative justice approach can be most effective in reducing re-offending where the offenders have committed serious, personal and violent crimes.

So I'm pleased that restorative justice programmes are becoming an increasing part of both adult and youth criminal justice. I want to see this role increase further still. We should consider using such programmes routinely for crimes such as assault, robbery, and stealing - in addition, where appropriate, to prison or other sentences. And with specialist, highly trained staff, they could also be used - again in addition to the normal court processes - in cases of domestic violence and sexual assault, where victims believe it will help them, and will enable offenders to fully grasp the devastating impact of their crimes.

Was Zacchaeus forgiven? His relationship with God and his community was repaired, but who knows whether his individual victims found it in their hearts to forgive him? Restorative Justice can't demand remorse from offenders or forgiveness from their victims. All it can do is open the channels of communication which makes such healing possible. That healing rarely takes place overnight; it may take years, or it may not happen at all.

But I choose to end with an extraordinary story told by a judge from New Zealand which demonstrates the full transformation - the Shalom - that restorative justice can help bring about.

It's about a young man who committed two burglaries. He'd been in trouble before, but rejected involvement in restorative justice, and the police couldn't catch up with him this time. Two years later the man found out that he was going to become a dad. Wanting to start afresh, he handed himself into the

police and asked to meet the people whose homes he'd burgled. He worked out weekly repayments to cover their losses and set out his entire budget before them, including the money he'd need for the baby when it arrived.

The victims were so impressed that they said they wanted the money spent not on themselves but on the baby, to make sure that it had the start in life which the young offender had never been given. They also wanted him to attend a parenting course, because they wanted to break the cycle he'd been caught up in from a young age. They even wanted to keep in touch, and it was agreed that when the baby was six months old the young man would write a letter to them to tell them how things had been going for him and his new family.

"Today Salvation has come to this house".

As the wife of the previous British Prime Minister, Tony Blair, and a Roman Catholic, Cherie Booth QC is uniquely placed to observe the interaction of the government, law and Church in respect of human rights.

This is a transcript of a Lenten Talk given on BBC Radio 4 on Wednesday 14th March 2007 and is published by kind permission of Cherie Booth QC and the BBC.