

## **Restorative Justice as a Model for the ACPE Ethics Process**

**by Anne Underwood, Esq.**

During the past decade, most Jewish and Christian denominations as well as secular associations of professionals have adopted Codes of Ethics. Some view these Codes as regressively rigid rules that seek to impose uniformity on relationships that should be graced with spontaneity. When Codes are violated, many fear a response that is reactive, impersonal, and retributive.

Rather than being “rule based,” the ACPE Code of Ethics is informed by values common to our religious traditions: respect for the person, fidelity, honesty, and justice as responsible use of power in relationships. The Ethics Commission has revised both the Code and its administrative processes using the lens of restorative rather than retributive justice. The difference between the two approaches to justice is illustrated through the questions each asks when harm is alleged.

Retributive justice asks: What law was broken? Who broke it? What is the punishment? The focus is on the actions of the accused. Rarely are the concerns of the alleged victim heard. Nor is the alleged violation examined in the context of the shared values and concerns of the larger community. This is the traditional approach of the U.S. criminal and civil court systems.

Restorative justice asks: What harm was done? What needs to be done to repair the harm? Who is responsible for repairing the harm?[1] The concerns of both the accused and the alleged victim are heard. Communal responsibility is considered: what was the environment in which a particular harm occurred? What is the culture of the community that encourages or permits attitudes or actions conducive to further harms of a similar nature? Might the community as well as the person accused need to examine assumptions about power dynamics?

When harm is confirmed, responsibility and sanctions are assessed but with consideration of the equally important restoration of right relationship within a damaged community. While this may not always be possible between the parties themselves, each should be able to find a point of re-entry into the larger ACPE community for support in healing, growth and new understanding.

Processing complaints about colleagues is demanding and often divisive work. The temptation is to respond in an adversarial and defensive manner. Restorative justice invites us to view the complaint process as invitation for self and community introspection. When there has been a violation of the Ethics Code resulting in harm, justice requires accountability. Catholic ethicist Richard M. Gula writes: “Accountability is a way of doing justice toward the community. The covenantal obligations we undertake as ministers warrant holding us accountable in order to protect others from being harmed.” He quotes Protestant health care ethicist William May who says, “In professional ethics today, the test of moral seriousness may depend not simply upon personal compliance with moral principles but upon the courage to hold others accountable.”[2]

Within the framework of restorative justice, accountability requires ameliorating a harm. Doing justice is not about punishment. It is about correction and protection. In order to be in right relationship with the ACPE community, a member needs to demonstrate an understanding of how an action or attitude reflected in an ethics code violation has caused harm.

The duty to protect is owed by ACPE to those who place their trust in ACPE members. When ACPE holds its members accountable for harms they have inflicted, the member him or her self may be “protected” from repeating the harm. Happily, not all complaints result in findings of harm. Some complaints are cries for better communication or warnings that some aspect of an otherwise well functioning program needs to be re-examined.

The hope of the Ethics Commission is that all complaints produce an opportunity for dialogue and discernment – individual and communal. When sanctions are necessary, the goal is restoration of right relationship within the ACPE community and with those with whom the community works.

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1Zehr, Howard. *Changing Lenses*, Herald Press, 1990. p. 191

2Gula, Richard M. S.S. *Ethics in Pastoral Ministry*, Paulist Press, 1996. p. 61, 62, 63.