

RESTORATIVE JUSTICE: A WAY TO SUPPORT THE HEALING PROCESS OF A CHILD EXPOSED TO INCEST

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ABSTRACT

Child sexual abuse is a worldwide problem throughout the history of humankind. It ravages childhood and the effect thereof can not be underestimated. As sexual abuse affects the child on a short as well as on a long term basis, professionals have to explore any possible means to minimize these effects. This discussion highlights the value of restorative justice in this regard as well as the way to apply it to respect the specific needs of the survivor of sexual abuse. If successfully applied, restorative justice may contribute to the healing of the survivor of sexual abuse.

INTRODUCTION

Sexual abuse of woman and children has been with us since the beginning of mankind. Biblical and war stories also attest to this statement. When wars were fought, women were part of the plunder and stories of how they were sexually abused, were widely documented. Although the occurrence of sexual abuse has been noted throughout history, society has for long failed to acknowledge it as a social problem. Despite the fact parents are morally and legally regarded as guardians and protectors of their children, it is a fact that these children can become victims of sexual abuse within the so-called “safety” of their family homes. The question can be asked why children remain vulnerable to sexual abuse in the custody of parents, who should be the protectors of their children.

According to the American Psychological Association (2000) children who have been sexually abused can suffer a range of psychological and behavioral problems, from mild to severe, in both the short and the long term. Whatever the form of sexual abuse children experience, the effects thereof are extremely damaging and traumatic for these children. Sholevar (2003), Glaser and Frosh (1988) and Doyle (1994) caution that the negative effects of child sexual abuse can affect the victim for many years and can last into adulthood. They further pointed out that there may not necessarily be any lasting or obvious physical effects of sexual abuse, but that the psychological effects are much more prominent. The effects can manifest in many different ways or in various areas of the survivor’s life and may not surface until the survivor has reached adulthood. Lown (2001) and Spies (2006) specifically caution that it is possible that the long-term effects of the abuse may not be observed, as many victims learn to hide or suppress the feelings as a way to survive the abuse. When the abuse is disclosed, the victim may relate the experience in a calm and unemotional way. Mullen and Flemming (1998) add that the long-term effects of child sexual abuse should be understood as an interaction between the developmental, psychological, social and interpersonal levels of a person. Different authors such as Gil (1991), Veltkamp and Miller (1994), Smit (2007) and Browne and Finkelhor (1986), agree that if a child is abused by a person known or close to him/her - as in the case of incest- the impact of the abuse may become severe. The American Psychological Association (2000) confirms this by indicating that children who experience the most severe types of

sexual abuse, were usually involved in incestuous relationships. Veltkamp and Miller (1994) mention that children's levels of trust will always be most negatively influenced during the incest process because of the fact that these children experienced that the person that they love and trust the most, is not worthy to be trusted. Instead of providing safety, this person only inflicts hurt. These experiences consequently leave children more confused and guilt ridden. Perry and Thomas (2003) confirm the latter when they indicated that sexual abuse becomes more traumatic when it occurs in the family system because of the non-emphatic, uncaring climate within that family system. Spies (2006), Hartman (1995) and Cairns (1999) conclude by indicating that these children never experience emotional security or any nurturing in their families.

The courts are confronted daily with offences relating to different forms of sexual abuse. Incest forms a large percentage thereof. The question we need to ask is how restorative justice as a philosophy and a way to deal with the effects of crime, can be applied to enhance the healing process of children involved in incest court cases. Through research and experience over a period of twenty seven (27) years in the field of sexual abuse, the author realizes that abused children have a need to experience that the perpetrator has taken responsibility for the abuse. If this does not happen, children may believe that they are responsible for the abuse. In fact, Bass and Davis (1994) noted that mothers often put the blame on their daughters when they disclose the incest. The children need to accept that it was no flaw in them that caused the incest. Unfortunately many grow up saying, 'Why me? What did I do to deserve this?'

RESTORATIVE JUSTICE

According to Fattah (1997) restorative justice refers to a philosophy and an approach to deal with the effects of crime. It views crime as a violation of people and relationships. The purpose is to heal those relationships by identifying the needs, responsibilities and obligations with the victim and the offender, together with other stakeholders such as the community and the state. The parties involved take ownership of these processes without getting into a retributive mode. Both in its purpose and process, it is a creative approach in promoting accountability of offenders for their crimes, providing the opportunity for the victim to take some measure of control (Walgrave, 1995). Accepting responsibility and facing a victim may be tougher and more meaningful than other punitive measures of punishment. Restorative justice creates opportunities for healing, repentance, restitution, taking responsibility for perpetrating crime and acknowledging the needs of victims. It further allows for the participation of victims in a process to address their needs, healing and restoring dignity and self-respect, which does not occur in the general course of events in the justice process. These processes also provide the arena for expressing anger in a safe environment, while the possibility for repentance and forgiveness also exist. Here the focus is more on the offender who through dialogue and negotiation will attempt to restore emotional losses experienced by the victims and victimised communities. This makes it possible for the victim as well as the community to take part in measures of redress. Umbreit (1994) refers to it as repair of social injury.

Although Walgrave (1995) supports restorative justice as an approach, he also indicates that some work still needs to be done to find the best way in which to

implement the process so that it will serve the best interest of the child involved. The question is whether restorative justice as a process can be utilized to contribute to the healing of the survivor of incest.

INCEST

According to Crosson-Tower (2002), child sexual abuse is classified into categories according to the identity of the perpetrator. In line with Crosson-Tower's opinion, child sexual abuse is traditionally discussed under the headings of incest and extra familial abuse. As a result, theories explaining the phenomenon often describe it from the perspective of the offender's motivations. Bolen (2001) takes this line of thought a step further when she claims that classification of child sexual abuse is made according to the abuser's *modus operandi* and is the very reason for the lack of knowledge about victims. However, Wiehe (1996) argues that 75% to 80% of all offenders are related to or known to the victim, emphasising incest. Doyle (1994:9) defines child sexual abuse as follows:

The involvement of dependent, developmentally immature children and adolescents in sexual activities that they do not truly comprehend, to which they are unable to give informed consent, or that violate the social taboos of family roles.

Veltkamp and Miller (1994:30) add to the above definition as follows:

Sexual abuse includes any contact or interactions between a child and an adult in which the child is sexually stimulated or is being used for the sexual stimulation of the perpetrator.

Poston and Lison (2001:22) explain abuse with the following:

Sexual abuse takes place any time a person is tricked, trapped, forced or bribed into a sexual act.

Incest adds an additionally devastating dimension to these definitions, namely that the offender is related to the victim. Maltz and Holman (1987) refer to incest as any sexual contact between a child or adolescent and a person who is closely related, or perceived to be related, including stepparents and live - in partners of parents. Sholevar (2003:697) describes incest as "...the intimate sexual intercourse between close relatives". Spies (2006) stresses that the above definition does not include the patterns of incest in a re-married family system or in a foster or adoptive family system, even those families experience the same losses and pain following incestuous relationships. Most victims are female; most perpetrators are male. Incest involves sexual activity that occurs only once as well as activities that take place over an extended period of time, often over several years. It is clear to the author that incest survivors can only refer to the process of the abuse as being trapped as a child, like a small animal cornered by a predator.

Effects of incest

The exposure to incest as a form of sexual abuse will always be regarded as detrimental to the healthy development of any child. The effect of incest on a child's life will never disappear by itself, but rather needs to be addressed by means of some form of intervention, for example intensive therapeutic support. The following are some of the aspects these children always highlight as painful and need to be taken into consideration during the healing process:

- They experience some difficulty to work through their guilt feelings regarding the sexual abuse. They often express the need to hear that they did not contribute to the pain of the abuse and were not in a position to protect them against it. Unfortunately victims often take the responsibility for it and even expressed dismay at the fact that during incest they may become highly aroused and even achieved orgasm. Maltz and Holman (1987:5-6) relate a child's formulation of her experiences with the following words: "I wished I was a man; then I wouldn't have cramps anymore, my boobs wouldn't be in the way, and he wouldn't have touched me." These children do not understand that their bodies will spontaneously respond to touching, even when they are forced into sexual activity without any choice and therefore can become very confused (Ferguson & Mullen 1999; Spies, 2006).
- They expect the offender to apologise for the sexual abuse as they did not deserve it. It is of utmost importance for victims during the healing process that victims witness for themselves that the offender demonstrates honest remorse regarding his/her wrongful deeds. If this can happen in a secure environment, it can only contribute to the restoration of the victim's self worth. Children, who were sexually abused, often feel that they were of little value and therefore deserved to be abused. Their realities were so twisted during this process, that they believed that they asked to be abused (Bass & Davis, 1994). Many abused kids are even told directly that they'll never succeed, that they're stupid, or that they're only good for sex. With messages like these, they find it hard to believe in themselves.
- In the case of incest, victims experienced losses relating to emotional security as well as to healthy experiences with their parental figures. During the sexual abuse process the father figure rather becomes a lover and as a result, the mother becomes part of the child's peer group (Spies, 2006). Besides the fact that this process denies children healthy nurturing and acceptance from their parents, these children do not have the benefit of healthy parental role models either way. If they were abused, their natural trust is skewed by adults who misused their innocence. Unless they actively face their abuse and begin to heal from it, they are likely to repeat the same kind of parenting they experienced as a child. Bass and Davis (1994) indicate that if a sexually abused child can learn through experience that parents can make mistakes but are also able to rectify it, they have a better chance not to repeat these experiences when they become parents.
- Children who were abused experience that their boundaries "the right to say no" and their sense of control in the world were violated and that they were powerless. Professionals need to establish what distinguishes the child who has been subject to incest from other children. Children begin their lives with little control over their bodies but are gradually taught to be responsible for their physical and then for their mental and emotional selves. As adults they treat their bodies with care and respect.

For the victim of incest, this is not always possible. The body that a child comes to know first as the real self, becomes someone else's territory, to be intruded upon at another person's will, without the child's consent. If the child does give permission, it is a travesty of what the word means and is at best, the child's pathetic attempt to gain some power. It can in no sense constitute real adult permission, freely given without duress. The truth is that children do not have enough power to protect themselves. Since the child's body is violated regularly at someone else's will, such a child will be unable to establish meaningful boundaries which is a requirement for privacy. Violation of this normal desire for privacy has incalculable effects on the incest survivor. Nothing is truly the child's. Accompanying this violation of physical boundaries is another violation far worse and far more difficult to explain: it is the violation of the mind. Children in fact start to believe that they have no power, whether this belief is true or not. The physical power of the perpetrator becomes emotional power which can last into adulthood. Poston and Liston (2001) and Cairns (1999) support the view of Bass and Davis (1994) when they confirm that if the abused child does not regain this power again, they will not be successful in close or intimate relationships in the future.

- Most children who were sexually abused, experience problems with trust. Blume (1990:237) mentions the following about trust: "Incest sacrifices trust. How can you trust when you expect anyone you care about to rape you one way or another? The incest victim finds no consistency, only broken promises". The implied promise of the caretaker is, "I will take care of you," but the caretaker who is the molester abrogates this responsibility. The person whom the child feels should rescue her (usually the mother) is, in the eyes of the child, also not doing so (as she well might be, although perhaps for real reasons which the child can not understand). As a result, children learn not to depend on anything or anyone that seems to meet their needs. They are reluctant to let down their guards to begin with and acts of kindness scare them. They may also respond to the most loving companions with the most unreasonable anger (Smit, 2007; Spies, 2006). Therefore, Maltz and Holman (1987) and Cairns (1999) confirm that these children who experience unresolved concerns about trust will experience their early relationships in childhood and adolescent years as rocky or non-existent. Sometimes these children do not allow people close to them, as they fear any closeness due to the strong associations with sexual abuse (Crosson-Tower, 2002; Spies 2006).
- Years of self-doubt and poor self-image take its toll on survivors as it fosters emotional and social isolation (Bass & Davis, 1994:134). Many survivors performed poorly in school, as they were unable to concentrate and were often depressed and discouraged. In speaking about how the incest and subsequent courtroom ordeal and how it affected her sense of self-esteem, one girl said the following:

I hated myself and couldn't get along with others. I was always getting into trouble at school for fighting. My life was miserable. I got poor grades and spent most of my time alone. I retreated from life. When I was at home I spent most of my time in my bedroom, usually crying. I wanted to belong. I wanted to have friends but I had established a reputation for being a poor sport and a fighter. I was a loner. During recess I sat by myself. I knew the other kids didn't want to play with me. I was a social reject, a complete outcast (Maltz & Holman, 1987:46).

- Self-doubt as explained above may extend into survivor's adult lives, making them vulnerable to abusive partners and to the feeling that they are unable to trust their own perceptions. Along the way, each failure or perceived failure serves as evidence for them that they are different and not as good as other people (Bass & Davis, 1994).

Because incest is a violation of a child victim's boundaries, in later life incest survivors tend to be sensitive to any crossing of the invisible wall with which we surrounded ourselves. They are frightened or enraged when someone touches them by surprise, or when someone hugs them without asking or when someone playfully grabs them from behind. Their gut reaction may be to snap at or even punch people that do this, or they may become paralyzed and terrified. According to Blume (1990) there are four simple and universal rules to apply here:

- Never touch a survivor without permission
- Never come up from behind to surprise the survivor
- Never impede the survivor's movement
- If you do one of these things and get an unfavourable reaction, never criticize the survivor for his/her reaction or tell the survivor to "lighten up"

Incest survivors may manifest extreme behaviour with regard to boundaries: they may be extremely protective of their boundaries, establishing their invisible wall at a far greater distance away from their bodies than most other will do. Incest survivors who are casual about their bodies may be totally inaccessible emotionally: 'you can touch me, but you can not touch me.' Incest survivors who experience this may flirt, talk, react, even seem to share generously about their lives, but none of this may have much meaning for them. Survivors' boundaries are not limited to their physical or emotional selves but are extended into the space around them (Mather & Debye, 1994). Many survivors protect their private space fiercely, choosing carefully whom they allow into their homes. Any penetration of their territory is an invasion: the only safety they know. In contrast, some survivors may have a weak sense of home because they were unable to experience any personal safety while sharing a home with the perpetrator. Unfortunately they also need to know that the safe space around them can only partly compensate for the lack of safety inside themselves (Aincough & Toon, 1993). Survivors need to face the pain of the past. It cannot be erased by a fortress built later in their lives. As survivors of incest will fight for control they lost through the process of the sexual abuse, clear boundaries can support them to regain that emotional control again (Hansen, 1991).

Incest survivors' primary task is to regain power over their lives. The first step for incest survivors is to become aware of their right to make choices. Because of the abuse, they stop considering choices and develop the capacity to rather 'adapt to what is.' It is not easy for survivors to take this power back as it fills them with enormous anxiety (Blume, 1990). They first need to acknowledge and develop compassion for the bondage the child was actually in, and stop hating and blaming themselves for their powerlessness. If child survivors of sexual abuse for example are forced to be witnesses in court cases, without respecting their rights to make choices, one can maintain and even intensify the pain of the abuse (Mather & Debye, 1994). On the other hand, when they do understand the meaning such a court case may have for them, they may be able to see it as a means to regain control and even contribute to

their self worth. Solid preparation for a court case can support the latter. Only a single interview with such a child can surely not provide the security a child needs in such a process.

RESTORATIVE JUSTICE AS A WAY TO DEAL WITH THE EFFECTS OF INCEST

If one takes in account the above discussion regarding the effects of incest on the lives of survivors, one has to ask the question how restorative justice as an approach during the legal process can contribute to the healing of the survivor? To respond to this question one has to take first note of some aspects that are of great importance to any survivor of sexual abuse during a court case. Professional helpers need to take care that survivors of sexual abuse at least regain to some extent the following through a court case:

- Trust in themselves and others - especially other adults.
- Establishing their innocence regarding the sexual abuse and to let guilt feelings go
- Self-acceptance, which includes the acceptance of their physical bodies
- Knowing their personal power and taking calculated risks
- Knowing their personal boundaries and experiencing that other will respect it
- Identifying their personal space and enjoy the safety of it
- Experience more success and self-worth
- Having the right to make choices or decisions
- Having the right to be listened to and not to be overruled by others.
- More emotional control and peace of mind (Calder, 2000; Spies, 2006).

Although it can be very difficult to enhance the above mentioned factors during a court case, all the different professional role players in such court cases, need to respect these needs by being sensitive to it throughout the court case. Not one of these role players can act on behalf of survivors, as if they know what is best for them. Even if one knows according to theory or experience, all decisions need to be reflected on with regard to the victim. If professional role players do as they like without consulting the survivor, the survivor can perceive the process as just as disempowering as the sexual abuse itself. One has to take into account that the sexually abused child was hurt by adults and that professional role players are also adults. They expect disrespect from adults towards them and will therefore have a tendency to distrust all other adults, including the professional role players (Hansen, 1991; Spies, 2006).

The way the abuse was been dealt with when the survivor disclosed it, will influence its subsequent impact. If a child's disclosure is being met with compassion and effective intervention, the healing starts immediately. Bass and Davis (1994) correctly indicated that this statement is also true for the legal process as they regard it as an integral part of the healing process. If the needs as spelled out in this discussion were not respected, the best interest of the child did not count at any point of time. One then needs to ask if a court case will be in the best interest of that specific child.

As mentioned before, the process of restorative justice in a case of sexual abuse is still not well spelled out, but it has to deal with the restoration of the survivor's status. In general, restorative justice is also not regarded as suitable for children, especially in the case of sexual abuse where about 80% of the victims know the offender. If professionals would like to apply it in sexual abuse cases, both the victim and offender need to be well prepared for it and this needs to be part of the healing process. It is of great importance that the child experiences the perpetrator to be the guilty party and that the child also receives a word of apology from him/her (Spies, 2006; Trepper & Barrett, 1986).

According to Nesor, Prinsloo, Naude and Jacobs (1998) restorative justice refers to a context in which the offender will be encouraged to take responsibility for the sexual abuse and that the needs of the child - as explained in this article - be respected by the perpetrator and any other person involved in the healing process of the child. Restorative justice therefore does not only make use of the victim's valuable evidence to develop offender accountability but also facilitates the healing process of the victim. The following needs of the victim can be addressed by means of restorative justice:

- To regain self power and self acceptance
- Let go of guilt feelings and to confirm that the victim was not responsible for the abuse
- Establish their innocence as children
- To regain the right to make decisions
- To regain trust in others
- To establish personal boundaries

CONCLUSION

Children tend to be always at the bottom of the social pecking order as adults have power over all children. Children do not have the status to impose their will on adults and they lack the ability to be allowed to control their own lives. This gives the responsibility to those around them. The more dependent children are, the greater our obligation to protect them. As much as we can protect them, we can also abuse them, thereby putting them particularly at risk. Time does not cure the effects of sexual abuse on children but rather the way their healing process was facilitated. If the process of restorative justice includes respect for the survivors needs, it will contribute to their healing. More research needs to be conducted though regarding restorative justice as an approach to cases of sexual abuse. The specific activities or procedures to apply it meaningfully still need to be discussed and negotiated among the different professional role-players. At least we are aware of which needs to address of the sexually abused child when wishing to apply the principles of restorative justice.

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