

CREATIVE RESTITUTION: A CORRECTIONAL TECHNIQUE AND A THEORY

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Restitution, in current usage, is a synonym for damages, indemnity, or reparation. It refers to a mandatory, court-determined specific act, usually financial. Its rehabilitative potential, although probably quite limited, has not really been utilized in correctional work (4, 20), and is found more often in civil than in criminal law.

Creative restitution, on the other hand, refers to quite a different technique (9). An offender, under appropriate supervision, is helped to find a way to make amends to those he has hurt, making good the damage or harm he has caused, and going a second mile whenever possible, e.g., by helping others like himself.

While creative restitution thus is distinct both from punishment and from the usual reparation or indemnity, it contains no element actually new to correctional work. Its various characteristics may already be found in some current prison programs, or in religion's concept of atonement, civil law's mandatory restitution, psychiatry's autistic restitution (19), and even Emersonian compensation. Cutts and Moseley (6) have suggested the use of some of its characteristics in child discipline; and, following Aichhorn (3), Dockar-Drysdale (7) has used some in a British juvenile institution. The innovation of creative restitution seems to be that it takes familiar elements and combines them into a new gestalt.

The technique of creative restitution was originally developed by the first author on a purely empirical basis and its relatedness to Adlerian theory subsequently noted. It is the purpose of the present paper to enumerate and illustrate the various aspects of the technique, and to discuss them on the basis of Adlerian theory. These discussions are by the second author who for many years has applied the principles of Adler's Individual Psychology to correctional work (15).

GENERAL CHARACTERISTICS

1. In creative restitution the offender's role is *active* and *effortful*. Where the key characteristic of punishment is probably suffering, a key characteristic of creative restitution is effort.

In Michigan, Wisconsin, and several other states, forestry camp programs of the departments of correction give convicts an opportunity to contribute to the conservation of natural resources. Even though these camps operate within a punitive framework (the criminal code), they are a big step away from "serving time" and towards a program of restitution. They conserve human as well as natural resources.

According to Adler the dimension of activity-inactivity is a fundamental, general personality trait (1, pp. 163-166), and delinquents are understood as a type of failure located on the active side (1, p. 166). At the same time, the healthy individual in general is understood as being active. Healthy adaptation is "active adaptation" (1, p. 106). Thus activity represents a healthy component in the delinquent personality, and a correctional technique which requires activity and effort directly channels the intrinsically healthy component of the delinquent personality. Furthermore, activity and effort imply learning (re-learning, re-education) by doing, as encouraged by Adlerian theory. Such learning is indispensable where the verbal insight approach does not motivate a change in behavior, or is for other reasons not feasible, as is often the case with offenders.

2. The effort required by creative restitution is a *constructive* one, with socially valuable consequences. While effort in itself may have some rehabilitative effect, effort becomes meaningful to an offender only when it results in some observable value.

At the Columbus, Ohio, penitentiary, 150 men—killers, robbers, embezzlers, forgers—volunteered for cancer research, and 53 were injected with live cancer cells. At the Chillicothe, Ohio, federal reformatory, 30 inmates volunteered for polio experiments. At California's San Quentin, inmates offered to be guinea pigs in bubonic plague research. At Southern Michigan Prison in Jackson, 20 inmates "sneeze for science" in hay fever tests, having agreed to go without medication; 200 more participate in aspirin research.

An essential aspect of all forms of failure, including delinquency, is a hidden increased feeling of inferiority with a resulting self-centered goal which is frequently reflected in a superiority complex (2, p. 232). "The only salvation from the continuously driving inferiority feeling is the knowledge and the feeling of being valuable which originates from the contribution to the common welfare" (1, p. 155). By asking the offender to make such a contribution, creative restitution teaches him to use his abilities and energies for constructive achievements and thus genuinely increases his social status and prestige.

3. The constructive effort and its consequences are *related to the offense* and its consequences. In other words, creative restitution is distinct from expiatory punishment, which is arbitrary rather than offense- or damage-related (17).

In Milwaukee, a youth failed to yield the right of way to an elderly man whom he then injured with his car; the youth complied with the court's suggestion that he donate blood. In the same town, a father, to get a drink, stole a 60-cent March of Dimes collection, and was ordered to visit crippled children in two institutions. In Detroit, 3 boys stole a locomotive and drove it up and down the tracks; Judge Nathan Kaufman sentenced the boys to visit the tracks daily for 3 weeks, to observe railroad procedures and the dangers of their offense, and to write up their observations.

While Adler himself did not speak about consequences, this concept is very much akin to his thinking. In an earlier article (16), the idea of natural consequences has been shown to be in the center of the treatment of offenders based on Adlerian principles. This paper also calls attention to an early counterpart of natural consequences in the "natural or logical punishment" of Jean Jacques Rousseau and later Herbert Spencer. "These are inflicted not by the whim of any individual, but they follow naturally and logically as physical or social results of bad behavior" (16, p. 276). Such consequences have the important meaning of dramatizing the logical results of the offender's action (16, p. 279). They help the offender gradually to understand that in consciously or unconsciously fighting any personal authority he was actually engaged in a senseless battle against a far greater authority—the natural order of things. Natural consequences also plays an important part in Adlerian theory of school discipline (8, pp. 76-89).

4. The relationship between damage and effort is *reparative*. An offender, so far as possible, undoes some of the harm which resulted from his offense.

In La Crosse, Wisconsin, a 17-year old youth cut down a half-grown tree in Memorial Park. On probation, encouraged by his supervisors, he bought a nursery tree, spent a day removing the old stump, and under expert guidance of park maintenance men, planted the sapling. In Detroit, a 20-year old youth ran through a red light while speeding, killing another driver. Maximum sentence: 5 years in prison, \$5000 fine. The widow pleaded with Judge Watts: "He does many things to make life easier for us, and his family has been kind to me. He has paid \$700 of a \$2130 bill at the rate of \$16 a week." The judge fined him \$500, instructed him to pay hospital and funeral expenses, and placed him on 5 years probation. (The Swedish parliament in 1926 enacted a law requiring a murderer to pay reparations to his victim's dependents.) A prison inmate, volunteering for a medical experiment, commented, "I took a life."

Within the present context, repair of damage actually is also reparative of the offender's opinion of himself. The offender usually has known all along that his delinquent acts provoke in him more fear and anxiety than satisfaction. He felt all the time that he could not live up to the expectations he himself would have for a reliable, responsible human being. "He always looks for excuses . . . and for reasons that

'force' him to be a criminal" (2, pp. 230-231). Guidance toward constructive restitution will help him overcome his feeling of uneasiness and inferiority and will become for him the most important and effective factor in developing his innate potentiality for social feeling and with it a more constructive motivation. Creative restitution, by offering direct correction of the delinquent act, will help restore self-respect. The offender feels accepted as a responsible human being who can make good his mistakes and correct his erroneous style of life.

5. The reparative effort may go beyond simple repair or tit-for-tat. It may include a *second mile*, in which an offender leaves a situation better than before the offense was committed.

In Darmstadt, Germany, Horst ripped out wall fixtures at his trade school. Judge Holzschuh directed the boy to work for the janitor Saturdays, and in a few months the school was in better physical condition than it had ever been (12). Jim tore down a neighbor's rural mailbox. His father took him to the owner's home, and Jim replaced the box. The next day the boy asked his father, "Have you got some paint I could use?" He repainted the box, leaving it in more attractive condition than before the offense. When Wisconsin convicts were asked to work for the police by manufacturing crime-detection instruments, they suggested improvements which were accepted and used.

The idea of the "second mile" can well be understood in the sense of the concept of successful overcompensation, making a strength out of a weakness. In the present context it would mean that the offender is led from a self-centered activity in a certain area to a contributive one in the same area. The "second mile" should be a particularly valuable factor in the offender's rehabilitation inasmuch as it takes him beyond a mere "homeostatic" restitution so to speak, and toward a truly "creative" open-ended restitution. The open-endedness of human dynamics is acknowledged by Adler in the striving for perfection as a primary force (1, pp. 116-117). Accordingly, he describes the truly healthy individual as one of whom "we may conclude that he feels life as a creative task . . . His courage . . . is to be construed as a judgment, 'Life means—to be interested in my fellow men, to be part of the whole, to contribute my share to the welfare of mankind' " (2, pp. 7-8).

INTERPERSONAL ASPECTS

The act of creative restitution takes place within the framework of certain interpersonal relationships in that this technique allows the offender the opportunity for give and take in discussions and mutual helpfulness between himself and his supervisor, his family and friends, his victim, and other offenders.

(a) Creative restitution encourages a cooperative relationship between offender and *supervising authority* in that, while a supervising probation or parole officer may encourage or even insist upon some form of restitutional activity, it is the offender who chooses the form it will take in accordance with his own abilities and interests.

In Detroit, the City Youth Commission has recommended that the juvenile court require offenders to participate in a constructive activity within a community agency, but leave to the youngsters' discretion the choice of activity. In Long Beach, California, Otto was convicted of several traffic offenses; Judge De Vries placed him on probation during which he must work for a civic organization of his own choosing.

(b) Creative restitution encourages reconciliation between offender and *victim*. Discussion of this aspect with offenders themselves has shown agreement among them that facing their victims is not easy (11). The courage required to do so may be a first necessary condition for reintegration with society. Additionally, the victim may be a resource for an offender's reintegration.

While on probation, Steve regularly visited his victim to make payments for tubing he had stolen. The victim, a member of a civic club concerned with delinquency, invited Steve to participate in the work, and the invitation was accepted, gingerly at first, then enthusiastically (13).

(c) Finally, creative restitution includes the possibility of being willing to help *others in the same situation*, as in the famous Step 12 of Alcoholics Anonymous. Similar constructive use of a group within correctional work is found in group counseling in prison programs (5), in Poremba's group-probation program (18), in prison Alcoholics Anonymous groups, and, at a pioneer level, in Osborne's use of the group as a disciplinary resource (14).

Tip had been in prison for 10 years. Upon his release, and with the encouragement of his parole officer, he founded Youth Anonymity, a mutual-help program for juvenile delinquents and youthful offenders (10). In Germany, a 16-year old girl stole money to buy candy. Judge Karl Holzschuh sentenced her to take candy each Sunday to children in an orphanage (12). In Oklahoma, an inmate promised himself to help others when released. He estimates he has employed over 400 parolees or former inmates. In prison for bad checks, Tex was taught electronics under the encouragement of Seventh Day Adventists. He began teaching courses, declined parole because he did not yet have a substitute instructor.

Theoretically, the fact that restitutional activity takes place within a framework of constructive interpersonal relations is possibly the most important aspect of the technique. One of the essential components of the offender's picture of the world is that people are hostile. He is alienated from them, his social interest is underdeveloped. Ordinary punishment is interpreted by him "only as a sign that society is against him, as he always thought" (2, p. 219). The constructive

interpersonal contacts should help the offender to overcome his previous experiences and opinions which had led him to choose delinquency. "Through social interest he gains contact with the common ideals. In this way the demands of the community become his personal demands; that is, the immanent logic of human society, its tacit assumptions and necessities, become his individual task" (1, p. 384). "With the criminal, as with the neurotic, we can do absolutely nothing, unless we can succeed in winning him for cooperation. . . . Everything is secured . . . if we can win his interest for other human beings, . . . if we can set him on the way towards solving the problems of life by cooperative means" (2, p. 217). As the offenders themselves recognized, this is at the same time a training in real courage, "the courage to be interested in others and to cooperate" (2, p. 228).

CONCLUDING CONSIDERATIONS

The essential aspect of creative restitution is that it represents for the offender an opportunity of constructive action in accordance with his abilities and interests and which is ultimately of his own choosing. By having been given this opportunity, the offender feels he is considered able to do the right thing and to correct his mistakes. He will, again or for the first time, feel accepted as a member of society, who is responsible for his actions and for correcting them where he has erred. Only if the individual considers himself socially and psychologically responsible can he achieve growth into a healthy mature human being.

Creative restitution, as a technique, seems consistent with a holistic, phenomenological, teleological, field-theoretical, socially oriented approach; with the assumption of a unique, self-consistent, active, creative self (style of life); with an open dynamic system of motivation (striving for a subjectively conceived goal of success); and with the concept of an innate potentiality for social living (social interest).

It is to be hoped that further consideration of these Adlerian concepts may result in refinements of the concept of creative restitution and in new and improved ways of applying this technique.

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