

Mobilizing the community for crime prevention

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When we are confronted by a problem, we need to make sure that we are asking the right questions or at least asking the questions in the right order. The immediate question may be: How to deal with a young person who has committed a crime.. Another question is: How to try to make sure that they do not offend again – and the answer to that question may be different. But if we are thinking in the longer term, we want to know how to create a society in which fewer people harm others (or themselves). This reminds me of the old story about the man who had got lost in the country, miles from anywhere. At last he met a farmer, and asked the way to Oxford. 'Well,' said the farmer, 'if I were going to Oxford I wouldn't start from here.'

This paper will discuss some of these questions, and suggest the role of restorative justice in answering them. First it will consider restorative approaches in schools and in the community, and their contribution to the reduction of harm. Then it will consider how restorative justice can be used at various stages of the process when harm, or crime, has taken place, and the community's role in this. Finally it will return to the question of prevention.

The present state of Britain is not ideal. My spies tell me that Ukraine is also not perfect. What would you change? In Britain, too many young people take drugs, drink too much, and carry knives or even guns. Too much value is placed on material possessions such as electronic toys, and this is encouraged by their manufacturers. They are small and expensive, and easy to steal; many robberies are in fact thefts of mobile phones and i-pods. The government tends to respond by increasing the maximum penalties. So we are not in the best place to start – but we are where we are. There are two main ways of changing the ways in which people behave towards each other: to change their attitudes, and to change the society in which they live. And the society is us.

Let us make the questions more specific. One starting point, in the situation where we are now, is to ask How can we bring up young people to be better able to resolve conflicts without violence? Some progress is being made in this direction.

Restorative justice in schools and communities

School children are being taught how to be peer mediators: older children can mediate problems between younger ones. The principles of mediation are very simple, so that quite young children can understand them:

Can you explain what happened?
What were you thinking at the time?
How were you feeling at the time?
Who else do you think has been affected by this?
What do you need to do so that the harm can be repaired?
What do you need so that things can be put right?

(adapted from Hopkins 2004: 73)

This process already goes beyond the question of who was right and who was wrong, and encourages each participant to be aware of their own feelings, and put them into words so that the other can understand them. Often both parties have been at fault; but even where one is clearly the offender and the other, the victim, the offender may also have needs which should be met.

This can be a constructive way of dealing with bullying (which may need to be handled by a teacher rather than a child). The traditional approach is to encourage the victim to 'stand up for himself', which is often impossible, or to report the bully, who will then be punished; but this carries the risk that the bully may then beat the victim even more, in revenge for the punishment. Bullying is a serious matter, because it can lead to the victim truanting from school, or the bully being excluded as a punishment; and truancy and exclusion are both associated with delinquency. So already we are beginning to answer the question, How can we reduce the likelihood that young people will commit crime?

Mediation is more than a technique for dealing with incidents. It should be part of a 'whole-school approach'. A school which uses this will show children how to listen to each other; they will respect each other, and respect their teachers rather than fear them. One primary school (ages 5 to 11) had very simple rules:

- Keep your hands and feet to yourself
- Don't shout
- Follow teachers' instructions
- No teasing
- No swearing.

The children liked the discipline, which was firm without being harsh, but they said "You are still telling us what to do." So we said "Do it yourselves." They proposed roughly the same rules - but they were *theirs*. Then the school introduced circle time. Once a week, and more if they need it, every class of children has to spend about half an hour sitting in a circle and sharing information, worries, and feelings. They decided to use circle time to negotiate on *everything* - what to do if someone is late, where the pencils are kept. There is a two-week induction period; then each teacher negotiates everything, in circle time, for the rest of the year (Farrington 1995)..

Restorative justice is seen not only as *pravosudie*, the administration of justice, but as *spravedlivost'*, fairness, it brings together the victim, the offender and the community in helping to restore (or create) social harmony and individual fulfilment. It will start by showing how children can learn restorative approaches; in schools, they can act as mediators to their peers, but the method can be used throughout the school, to deal with tensions between school and parent, pupil and teacher, and so on. Work of this

kind outside the official justice system is often described by a term such as 'restorative approaches' because in English the word 'justice' often suggests courts and officialdom. In some ways restorative justice (*spravedlivost'*) sets higher standards than law: 'Moral commitments are internally driven and self-regulating, while legal commitments are externally driven and require some kind of enforcement' (Pranis 2001: 300). This parallels the concept of Confucius, that the best form of social control is a combination of *ren*, loving others, and *li*, a moral code, which act preventively, giving people a sense of shame and a desire to correct their wrongdoings; if these are not maintained, they are replaced by *fa*, formal law enforced by punishment (Liu 2007; Wright 1996: 70)

The principle can spread into the community; a mediation centre can help neighbours to resolve disputes. This may prevent more serious tension, or if an offence has been committed, it may provide a way of responding to the conflict, rather than define it as a crime by reporting it to the police. The fact that an action *could* be defined as a crime does not mean that it *must* be. It will be interesting to learn whether the Community Restorative Justice Centres in Ukraine will operate in this way.

We have a number of community mediation services, mainly helping neighbours to resolve disputes about noise and other matters which affect people who are living very close together, especially in blocks of flats. It has been suggested that the idea of peer mediation, showing people how to be mediators for their friends and neighbours, could be used in communities such as housing estates, but this has not yet been tried.

After harm or crime

Two central elements of restorative justice are dialogue and repair of the harm caused; these can obviously only be done by the offender when people know who he or she is. When the offender is not known, a restorative system would include support for victims who need it. Victims may experience a variety of emotions: disbelief, shock, fear, or even guilt: they may feel that 'if only' they had done (or not done) something in a different way, the crime would not have happened. In England, the organization Victim Support arranges for victims to be contacted, and if necessary visited, by a trained volunteer, who can listen and reassure them that these feelings are normal. The volunteer can also give practical help, for example in claiming insurance or obtaining medical treatment (Spackman 2000).

If the case is reported to the police, and the police discover that the offender is a juvenile, in England and Wales the police can reprimand the offender, if he or she admits guilt. On a second occasion they can issue a final warning. This may be done in a restorative way, by telling the offender how much harm his action has caused, rather than by threatening serious consequences if he offends again. In some cases the final warning is accompanied by a structured rehabilitative programme, and in a few parts of England the police invite the victim, or someone to speak on behalf of the victim, to take part.

If the offender is an adult, little restorative action is available at this stage. Prosecutors have power to issue a conditional caution, under the Criminal Justice Act 2003, but this is not yet available throughout the country. The prosecutors will not

include a restorative process until they are familiar with the idea, and until a mediator or mediation service is available locally. Otherwise there is a danger that untrained mediators will be used, accustomed to the traditional ethos of criminal justice and with an imperfect understanding of restorative justice.

For young offenders and their victims there are, however, more restorative possibilities. They are administered by Youth Offending Teams. These were set up under the Crime and Disorder Act 1998. There are about 150 of them throughout England and Wales, and they have two main tasks: preventing crime by young people, and providing services to criminal courts. They are overseen by a Youth Justice Board. It promotes preventive work with other agencies, such as schools and drug treatment programmes, and carries out the sentences of youth courts, including reparation orders, drug testing and treatment orders, and custody.

Only about 20 per cent of the funding for YOTs comes from the YJB; the remainder comes from social services (about 40 per cent), local authorities and police (about 10 per cent each), probation, education and health (YJB 2006a). The YJB has a budget of over £400 million, of which two thirds are spent on custody and 6 per cent on prevention (YJB 2007a). The chairman of the YJB, Professor Rod Morgan, resigned in January 2007, saying that work to improve systems in young offender institutions was being "undermined", because minor offences that used to be dealt with informally or out of court were now being pushed into an overstretched criminal justice system. He also argued that reoffending rates for those sent to youth custody were extremely high. This meant that "a custodial establishment, no matter how good we make them, is the worst conceivable environment within which to improve somebody's behaviour" (*Guardian* 2007).

To give the statistical context, the population of England and Wales in 2001 was 52 million, of which 5.4 million were aged 10-17. In 2004/5 the courts and police dealt with 195 483 young people. There were 56 139 police reprimands and 29 231 final warnings. There were 26 133 referral orders, and 6 862 custodial orders (Y J B 2006a).

The commonest order of the youth court is the referral order (introduced in the Youth Justice and Criminal Evidence Act 1999). This means that when a young person appears in court for the first time, and admits guilt, the court *must* make an order referring them to a youth offending panel (unless the offence is too minor or too serious). This consists of two trained volunteers and a member of staff. One or both parents of a young person aged under 16 must be there, and others, including the victim, may be present. The outcome may be an apology, reparation, or a rehabilitative programme. It is partly restorative, because the emphasis is on reparation or rehabilitation rather than punishment, the victim can take part, and members of the community are involved. But it is not entirely restorative: the offender is compelled to take part, victims do not take part very often, the process is controlled by the panel, and the panel members are recruited and trained by the state, not by an NGO. Thus the numbers are high, but the process is not as restorative as it might be. It sometimes seems that restorative justice has a choice between being marginalized outside the system, or watered down within it.

The situation may however be improving: there are attempts to encourage more victims to take part (YJB 2006b), a strategy group has been set up to promote restorative justice (YJB 2007b: 5), and panel members are setting up an independent Association of Panel Members (AOPM 2007: 12). There could have been advantages if courts had been required by the Act to refer cases to community mediation centres, but too few of these yet exist.

The New Zealand juvenile system is less restorative to the extent that the mediators are employed by the state, but more restorative in that all cases (except those involving a death) are dealt with in this way (in a Family Group Conference), and the extended family of the offender and supporters of the victim are invited to be present (which is one form of community participation). In addition, in the New Zealand model the family of the offender are allowed 'private time' with no representatives of the state present, at which they can make an 'action plan' for the young person. In serious cases this has to be approved by the court, but approval is given in 80 per cent of cases.

The European Union has required its members to promote mediation in criminal cases for offences which it considers appropriate (EU 2001, art. 10). This leaves room for much discretion. Those of us who believe in the value of community involvement would encourage national legislators to use wording which leaves open the possibility of restorative justice services being provided by NGOs (or to leave out wording which prevents it), so that restorative justice is not necessarily embedded in the criminal justice system. More flexibility is also possible if the law does not require an admission of guilt; in New Zealand the accused is required only 'not to deny' involvement. It should be possible for individuals to refer themselves to a mediation service, rather than be compelled to go to the police or courts, even if there has been an act which could be defined as a crime (This obviously only applies where the parties are known to each other, e.g. bullying, workplace fights, neighbour disputes.) Lastly, there would be advantages in allowing standards-setting and accreditation to be done by a well managed and funded NGO with good links to the criminal justice system, rather than by an official 'Restorative Justice Board' as suggested by Lawrence Sherman and Heather Strang (2007: 90): governments may insert unrestorative requirements and restrict the types of case that can be dealt with restoratively. As a recent study of restorative justice in central and eastern Europe concluded, 'The experience of several countries shows that a well-functioning NGO is very helpful at the initial stage of R J implementation, in particular when it can design a program that will function within the existing law' (Zemlyanska 2004/5: 48)

Involving the community

We have seen several ways of involving the community. Members of the community can be peer mediators outside the court system, in schools and mediation centres. They can offer support to victims of crime, especially those whose offenders have not been caught. In the justice system they can be facilitators of the process or participants in it. There is one more important role for the community. making reparation possible. When the offender makes an apology, the victim may ask him or her to show that it is sincere, for example by doing some work for the community or

by addiction treatment or anger management. If the victim asks for compensation, the offender needs work in order to earn the money. Some offenders are homeless. So the community will have to provide the work, the accommodation or the treatment. There are arguments about what 'community' means, but in a sense it doesn't matter: it may be an employer who provides work, an NGO that provides an opportunity for service to the community, a housing co-operative, or local government which is elected by members of the community to collect money from them and provide services. If someone is hungry, it is no use offering him a photograph of a bowl of soup.

The public can be protected by official and by informal means. Official means tend to be based on risk assessment and supervision. Multi-Agency Public Protection Panels (MAPPP) were introduced in England in 2001, bringing together the police, probation and prison services for the assessment and management of the most serious sexual and violent offenders. They draw up a risk management plan with the help of information, skills and resources provided by the individual agencies. Other agencies are under a duty to co-operate, including social care, health, housing and education services. Each MAPPP area produces an annual report which details performance, statistics, future developments and MAPPP team contact details. In 2004/5 about 45 000 offenders were supervised, mostly sex offenders.

The public can also be protected by members of the community. Circles of support and accountability were developed in Canada in the 1990s, and introduced in the Thames Valley area of England, largely by members of the Religious Society of Friends (Quakers). Between 2002 and 2005, fifteen circles were established, with about 60 trained volunteers, for twenty high-risk sex offenders. Each group meets with the offender, given the non-stigmatizing title of 'core member', once a week at first, then fortnightly. The basis of the idea is that many sex offenders are socially isolated men, so support and friendship is what they need to strengthen their determination not to re-offend. What the circles offer, however, is 'tough love': if they notice that the core member is behaving in a way that might lead to re-offending, such as making contact with vulnerable women or children, they report this to the MAPPP; the individual is warned, and may be recalled to prison. In the first three years, no core member was convicted of any new sexual offence (Quaker Peace and Social Witness 2005).

This shows how statutory and non-governmental agencies can work together, each doing work which the other cannot do. There is however a danger that the state will want to control too much; there is also a danger that citizens will be content to allow it to do so. They may be only too willing to expect the state to solve all problems, even though many of these cannot be solved by state action.

In barbarian society, to assist at a fight between two men, arisen from a quarrel, and not to prevent it from taking a fatal issue, meant to be oneself treated as a murderer; but under the theory of the all-protecting State the bystander need not intrude: it is the policeman's business to interfere, or not. ... all that a respectable citizen has to do now is to pay the poor tax [the tax for the relief of the poor] and to let the starving starve.
(Kropotkin, 1902/1987: 183)

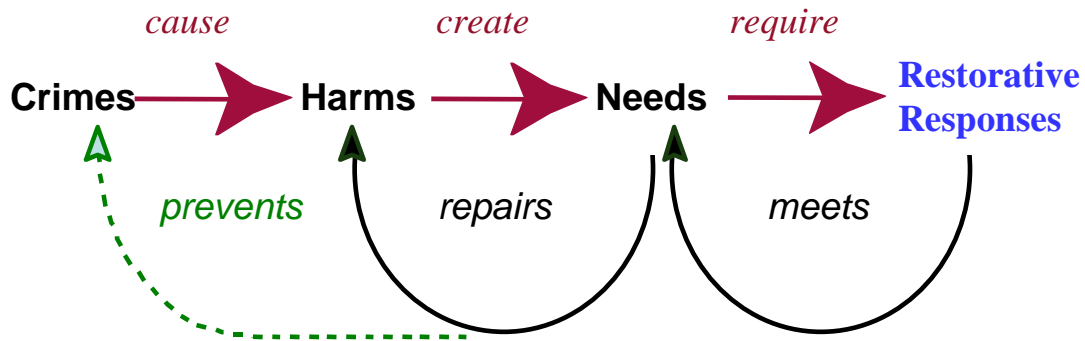
Restorative justice provides an opportunity for the community to become involved in responding to the needs of its members.

Renewing the link to prevention: preventive feedback

Let us look again at the questions we are trying to answer. The criminal justice system asks Who committed a crime, and how much should they be punished? (In some cases the court orders a rehabilitative measure instead of punishment; often there is a need for rehabilitation to overcome the damaging effects of the punishment.) Restorative justice asks instead What harm has been caused, who is affected, and what needs to be done to make things better? The atmosphere is also very different: instead of minimizing the harm in the hope of minimizing the punishment, the offender is encouraged to accept full responsibility so that he can wipe the slate clean [? избавиться от всех старых обязательств] . He can also explain how and why he committed the offence. and this could provide information which can be used for decisions about social policies and attitudes which can reduce the pressures towards crime. For example, if offenders reveal that they dispose of stolen goods by selling them to 'honest' citizens who do not ask why the price is so low, other citizens will have to use peer pressure to let it be known that buying stolen goods is not acceptable. It is reported that British people buy £1 billion worth of goods such as jewellery and electrical items in pubs and bars, and two thirds say they would knowingly buy stolen goods (*Metro* 8.5.2006) Prevention can also be considered in advance: in England at present the government is proposing to introduce gambling casinos; it is predictable that a number of people will become addicted to gambling and consequently resort to crime to obtain money, and this should have been considered before the idea was introduced. Similarly, anti-theft measures should be included in gadgets such as mobile phones and iPods before they are put on the market, not only after a large number of robberies have been committed. In the long term it will be necessary to consider whether the best way to run the economy is to employ workers to manufacture large quantities of unnecessary things, and persuade people that their lives will be incomplete if they do not buy the newest ones, with the predictable result that many of those who cannot afford them will steal them.

Some years ago I worked in the iron and steel industry, and learnt about the concept of an integrated steelworks. In the early days of steelmaking, the steel was made in a furnace, and the waste gases and heat were discharged into the atmosphere. Then it was realized that the waste gas could be used, and valuable materials and heat could be recovered from it. A steelworks which was integrated in this way was more efficient, and released fewer harmful materials into the atmosphere. Similarly, the criminal may be discharged from the criminal justice system with no job, no home, and a stigma which makes it difficult to obtain these necessities. Alternatively they may be integrated as members of society after imprisonment or, whenever possible, instead of it.

The process has been described in a diagram by Paul McCold (2005):



McCold, P. (2005, March). Barebones causal theory of restorative justice. Paper presented at the 6th International Conference on Conferencing, Circles and Other Restorative Practices, Penrith NSW Australia.

The diagram might begin one step further back: often needs (poverty, lack of opportunity) lead to crimes. A crime usually causes harm to someone. This creates a need (for explanation, apology, compensation, and so on). The needs require restorative responses, on the part of the offender or the community (and this applies to the needs of offenders also). Then in the bottom part of the diagram, the restorative responses meet these needs, and thereby repair the harms (as far as this is possible). The final line is a dotted line, because this is still only a possibility, but ideally the process should be completed by using the information to create a better society.

This principle could be called ‘preventive feedback’ It has been put into practice in Worcester, Western Cape, and other parts of South Africa, where restorative ideas are spreading (Skelton and Batley 2006) In a township called Zwelethemba, a Community Peace Programme was established in 1997. It has local mobilized Peace Committees , which arrange informal but structured peace gatherings to resolve disputes. It is community-owned but works with the formal justice system. It does not regard itself as offering merely restorative justice but as a programme of governance, encouraging people to take on responsibility. It deals with disputes involving money-lending, child maintenance, assault, and goods not paid for, and in cases handled by the formal justice system: the police refer to the PC two thirds of the cases received, which enables them to concentrate on more serious offences. The CPP pays 100 rand (about €10 euros) to the PC members who worked on a completed case, and 50 rand to the PC, which uses the money to fund a community project, according to agreed criteria and by means of a structured process¹ (Skelton and Batley 206: 111-2). Examples of projects, which both benefit the community and provide employment, are building a children’s playground, refurbishing an old people’s home, and loans to start small businesses (Roche 2003: 264-6). This is the element of preventive feedback.

¹ In mediaeval times, the offender had to pay compensation to the wronged person and *fred* (a fine for breach of peace) to the community, which used it for works of common utility and defence (Kropotkin 1902/1987: 132-3)

Conclusion

The effort to reduce crime in society, then, begins and ends with preventive measures. It starts by showing children how to respect each other and resolve conflicts, and extends this into the community. When a person harms another, the response can be a restorative one. Some examples from England were described, showing how the community can, and indeed should, be involved, and proposing ways in which the service can be provided by NGOs working with the criminal justice system but independent of it. Finally the idea of preventive feedback was proposed, as one of the advantages of the restorative response which can deepen policymakers' understanding of the pressures towards conflict and crime, so that action can be taken to reduce them.

REFERENCES

Association of Panel Members (2007) 'Referral order volunteers mark five years with own association'. *YJ: the magazine of youth justice* January/February, p. 12.

European Union (2001) *Framework decision on the standing of victims in criminal proceedings*. 15 March.

Farrington, L (1995) Using circle time mediation as a tool for whole school management. Unpublished paper to Mediation UK conference, June 1995.

Guardian (2007) <http://www.guardian.co.uk/prisons/story/0,,1999475,00.html> 26.1.2007, accessed 3.4.2007

Kropotkin, Peter (1902/1987) *Mutual aid: a factor of evolution*. London: Freedom Press.

Liu Jianhong (2007) 'Principles of restorative justice and Confucian philosophy in China'. *Newsletter of the European Forum for Restorative Justice* 8(1), 2-3.

McCold, P. (2005, March). A barebones causal theory of restorative justice. Paper presented at the 6th International Conference on Conferencing, Circles, and other Restorative Practices, Sydney, Australia.

Pranis, K (2001) 'Restorative justice, social justice, and the empowerment of marginalized populations.' In: G Bazemore and M Schiff, eds. *Restorative community justice: repairing harm and transforming communities*. Cincinnati, OH: Anderson Publishing Co.

Quaker Peace and Social Witness (2005) *Circles of support and accountability in the Thames Valley: the first three years, April 2002 to March 2005*. London: Quaker communications (www.quaker.org.uk)

Roche, D (2003) *Accountability in restorative justice*. Oxford: Oxford University Press.

Skelton, A and M Batley (2006) *Charting progress, mapping the future*. Pretoria: Restorative Justice Centre.

Spackman, Philippa (2000) *Helping people cope with crime*. Victim Support handbook. London: Hodder & Stoughton.

Wright, M (1996) *Justice for victims and offenders: a restorative response to crime*. 2nd ed. Winchester: Waterside Press.

Youth Justice Board (2006a) *Youth justice annual statistics 2004/05*. London: YJB. www.yjb.gov.uk

Youth Justice Board (2006b) *Developing restorative justice: an action plan*. www.yjb.gov.uk, accessed 4.6.2007

Youth Justice Board (2007a) *Corporate and Business Plan 2006/7 to 2008/9*. www.yjb.gov.uk/publications, accessed 4.6.2007.

Youth Justice Board (2007b) 'Panel to develop restorative approaches in youth justice.' *YJ: the magazine for youth justice*, January/February.

Zemlyanska, V (2004/5) *The development of restorative justice in central and eastern Europe*. Unpublished LLM dissertation, University of Sussex Law School.

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