

# Restorative Justice in the Community

Martin Wright describes the development of restorative justice as an aspect of community cohesion and inclusion, rather than as court-ordered sanction or punishment.

“Do you accept that there is a problem of anti-social behaviour?”, a witness was asked on Radio 4’s ‘Moral Maze’ programme last June. “Certainly,” was the reply, “there is serious anti-social behaviour by adults against children.” The witness was Camilla Batmangeldjhi, founder of Kids’ Company, which deals with wayward young people by treating them with love and respect. She was referring to the well-known fact that many young people who get into trouble have been abused or neglected, and ‘the system’ has failed to help them. If restorative justice were fully implemented, it would have a similar potential to turn stereotypes on their heads.

The stereotype implied by the name ‘National Offender Management Service’ is that ‘we’ are decent citizens, who need to be protected from ‘them’, the feckless predatory jobs, who can only be controlled by more bobbies on the beat, CCTV, ASBOs, electronic tags and ultimately prison. It is exemplified by a new book from Civitas (Green *et al.* 2005), which quotes the Home Office estimate that about

did was unacceptable, but we will help you to make up for it and behave in ways which we have found to work best for everyone” – a better message than that of punishment, “You harmed someone, so we’ll hurt you”. Research on restorative justice has repeatedly shown that a high proportion of offenders feel fairly treated; this bodes well for the future, even if for various reasons they do not immediately stop offending.

The next restorative development was dialogue. At first this was simply between victim and offender, but with a neutral facilitator to guide it. The expectation was that it would focus on restitution of goods, but it was found that this was not the top priority for most victims, and it could also be used in cases of violence against the person. It has been repeatedly reported that victims enter the mediation session determined to demand restitution and give offenders a hard time, but end up wishing them well in turning their life around. The two-way process of changing attitudes has already begun.

This process is not helped by the *Crime and*

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half of crime is committed by some 100,000 offenders, of whom about 20,000 are locked up at any one time. Solution: lock up the other 80,000. This is followed by some arithmetic showing that with private prisons and the private finance initiative, that wouldn’t be too expensive.

Restorative justice works on a different logic, which is growing as experience is gained. It started by looking at harm rather than illegality, including harms which have escaped being declared criminal. It considers how far the harm can be ameliorated, and how the offender can be encouraged to accept responsibility for doing so. Many offenders have also suffered harm, and society should look for ways of including them rather than banishing them. This is the big difference from the managerialist approach: it recognises that there has to be a two-way process, with accountability by offenders matched by responsibility to offenders. If ‘we’ want respect from ‘them’, we have to show respect to them. This does not mean condoning their behaviour; the message is “We want you as members of our society; what you

*Disorder Act 1998*, which does not invite the victim and offender to decide on reparation: the court orders it, the victim being merely asked to consent. This is a different dynamic. Some Youth Offending Teams have got round it by agreeing with local courts that the court will set the number of hours, allowing the victim and offender to work out how they can best be spent; the legislation should be amended to make this rule-bending unnecessary.

Then came the extension from one-to-one mediation to ‘conferencing’, where members of the offender’s extended family are also present, in addition to supporters of the victim. They too are ‘members of the community’; they can contribute to finding an action plan to assist the victim in recovering from the effects of the crime and the offender in making amends. They can also assist in implementing agreed reparation, by supporting the offender or her parents in various ways. Processes like these help members of the community to understand the pressures that lead to crime, and all the more when they are facilitated by volunteer mediators working



with a voluntary organization –another reason for out-sourcing this work rather than attempting to do it in-house.

In some ways, the earlier in the process cases are diverted to restorative justice, the greater the advantages: the time of police, prosecutors and courts is saved and the offender doesn't get a criminal record. For more serious cases it is felt that a judge should be involved. In New Zealand's juvenile system conviction takes place before a judge, who then refers the case to a family group conference which proposes an outcome. The judge usually endorses this but sometimes amends it, for example for reasons of public protection. In Canada some judges turn their court into a sentencing circle, with prosecution and defence lawyers, members of the victim's and the offender's families and community members affected by the crime.

So far the discussion has focused on crime, but an action is not a crime until someone defines it as such. Many crimes, especially violent ones, originate as disputes between people who know each other, and the way should be open for them to treat the incident as part of a conflict which can be taken to a mediation centre, rather than as a crime to be reported to the police.

Values are best taught young, and restorative justice, including methods such as circle time, offers a way to show all children how to resolve conflict through dialogue, without applying labels such as 'victim' or 'bully'. This could transform present-day schools and the society of tomorrow.

Some commentators decry the 'nanny state'. Nannies should be caring, and can be too protective; but they can also be bossy. At present we are under the heel of a very authoritarian nanny, and some are demanding that she should be even stricter (towards other people, of course). As the American criminologists Gordon Bazemore and Mara Schiff (2005) have suggested, the more we do this, the more our ability to handle our own communities' problems will atrophy. Taking part in deliberative justice takes

time, just as jury service and voluntary work do; but the more we do for ourselves, the less we shall need police, social workers and other agents of support and control, so the less we shall have to work to pay the taxes to pay for them (to say nothing of the savings on prison costs). This may be optimistic, but isn't it worth a try?

**Martin Wright** is author of *Restoring Respect for Justice (1999)* and a board member of CCJS and of the European Forum for Restorative Justice.

#### References

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