



Crime, order and social control

Restorative justice: does it work?

Roger Bolton:

Sir Charles Pollard, what constitutes proof in these cases.

Sir Charles Pollard:

A very large number of studies, including of course the one we've been talking about today, but lots of other studies, numerous studies around the world, which have shown that generally, for certain offences, but not for some others, the principles of restorative justice work well. That's my interpretation to those.

Roger Bolton:

And what's, what are the criteria for it working well?

Sir Charles Pollard:

First of all to have neutral and very effective facilitation, secondly to have processes which involve victims, to enable victims particularly to feel, able to want to come, and therefore you get a large number of conferences. Offenders too, but offenders generally, there's never been many issues about them wanting to go on a restorative conference, as opposed to going to court.

Roger Bolton:

So when you say, we've proved, or it has been proved, that restorative justice works, what is the nature of that proof?

Sir Charles Pollard:

It is that, overall, if you take the victim participation, and virtually every scheme which has been run professionally, there is very great satisfaction of victims as compared to going to court for example, very significantly different. Secondly on re-offending, it's not quite so clear on re-offending, but there are a large number of schemes, where there has been significantly reduced re-offending, or indications of reduced re-offending, much more than we've generally got for example from things, which involve the courts. So, those I think are very big bonuses for something which is fairly new.

Roger Bolton:

Roderick Hill, do you think it's been proved, that restorative justice works, or that the evidence so far suggests it does?

Roderick Hill:

Well you've got to ask yourself, what do you mean by works? What are the aims of restorative justice. We've talked quite a bit about re-offending, of victim satisfaction, but you've got to look at what the aims are of restorative justice, and some of those aims are sort of unprovable as it were. I mean you can look at re-offending rates, but like I said they're not the whole picture. You can look at victim satisfaction, and you can look at the repair of the harm.

Roger Bolton:

So what are the unprovable elements?

Roderick Hill:

Well when some of the unprovable elements, or whether repairing the harm has sort of strengthened the community, and those are sort of very intangible and difficult to measure, but quite possibly, something that restorative justice achieves.

Roger Bolton:

So that's something which is unprovable, but you would say, the potential is there?

Roderick Hill:

The potential is there, and you can see signs, you can see by talking to victims and offenders, by them telling you, that they get on better with their parents, or now that they've spoken to the victim, who they didn't speak to before. A lot of cases a victim might know an offender, and then that relationship's been damaged by the offence, and through the restorative conference that might have been repaired.

Roger Bolton:

So Charles is this a legal process, or is it not? Is it quasi legal, what is it in the end?

Sir Charles Pollard:

That's a good question which, most people will be spending a lot of time trying to answer. There are different views within the restorative justice movement too, there are some who would say this should come from a community and shouldn't involve the courts or legal people at all.

Sir Charles Pollard:

I personally think that it, could be described as quasi legal, in the sense, that if you implement it in a way in which it becomes complementary to the main criminal justice system, if you like the missing link, because it's a very legalistic system we have, it doesn't really get to the emotional harm at all. So if you bring in something which does address that emotional harm, which also, reduces re-offending, linked with other things, and also helps victims of crime, and also strengthens the communities, then I would say it is quasi legal.

Roger Bolton:

But records will be kept, and if the person re-offends in future, is it possible for the court to say hey, let's have a look at these records.

Sir Charles Pollard:

Yes, I mean that's the situation at the moment, for a very short number of years, in relation to young offenders, is not sufficiently developed with adult offenders, yet, although I think it will be, but there will need to be rules like that. So that will make it even more quasi legal into almost a legal system.

Roger Bolton:

And what about some of the perhaps dangerous, as regards the individual rights, in a legal system, the person, who is accused is defended, has access to a defence, a solicitor would be present. In these instances, perhaps a ten year old, eleven year old girl, there who is confessing to something, won't have legal representation, is that damaging potentially to her rights?

Sir Charles Pollard:

Well, this comes back to having proper standards and proper training. The whole essence of the Thames Valley scheme, was we had very clear protocols of how police officers were to operate, in dealing with the system, to be absolutely fair, on this. I've never come across any complaints on that score over many thousands of conferences, although there could have been things. And another thing about restorative justice, all the evidence from Australia actually, is that, comparing restorative justice processes to court processes, with a direct comparison, people who went through restorative justice, thought they were significantly fairer than going through the court processes, significantly.

Roger Bolton:

Roderick Hill, can we look at now the crimes for which this would not be appropriate, this process? Are we saying that, anything that could bring a jail sentence with it, that sort of crime, is not suited for restorative justice, what's the cut off point?

Roderick Hill:

I don't think there is a cut off point. I think that crimes where there will be a jail sentence, restorative justice can be involved.

Roger Bolton:

Now don't say murder for a start would you, rape? would say it was suit, this, the system could work in those cases?

Roderick Hill:

Well what I think you've got to do, is move away from restorative justice the model, i.e. the conference with the victims and the offenders that we've been looking at, and look at it more as an approach. Obviously you have to tread very carefully, but there's nothing to say that, say if the victim wants to have some say in those crimes, that could be considered a restorative approach, if the victims needs are taken into account.

Roger Bolton:

But, that would have to be built in as part of the, as it were conventional judicial process, that, there would be prosecution, evidence presented, person found guilty and otherwise, and then it would be in that context, that the victim would be given an opportunity of, talking to, expressing their concerns, perhaps having a view in the sentencing. But it would be in addition as it were, to the prosecution, not in place of.

Roderick Hill:

Yes and that's the way that restorative justice seems to have gone in this country. If you're going to implement restorative justice, one argument from some purists, would be to do away with the criminal justice system, and replace it with a restorative justice system. But really the way it's gone, is to sort of become uncomfortable bed fellows with the present criminal justice system, and perhaps that way grow within that system, begin to take it over maybe. They have different approaches, but they can sit together, so you could have a court case, you can have, part of the sentence being taking part in a restorative justice conference.

Roger Bolton:

Sir Charles, what crimes do you think are not suited to this process?

Sir Charles Pollard:

The very, very personal crimes like, rape, sexual offences, and probably domestic violence, are ones where, I think there's been very little experience of trying to do that, because it is just thought to be so problematic. Because you can end up with the victim of the crime being re-victimised, it could be almost as bad as the original crime.

Roger Bolton:

What if you have to face the person who raped you.

Sir Charles Pollard:

Exactly, particularly with rape. On the other hand, with domestic violence, there has been some experience in Canada, where they seem to have done a scheme which worked well. So it's a question of learning over time to, see if it can be used in those situations with very special safeguards.

Roger Bolton:

But that element of restorative justice, which is the victim having an opportunity to tell the offender, how they have been affected, that is something that perhaps could be introduced almost into every process, or with every crime.

Sir Charles Pollard:

In principle it can, it's all back to the whole issue of whether the power balance within the conference, if you're putting a victim in a situation where they're really in a power situation where, they're going to be almost re-victimised again, then that is pretty serious. But there are ways in which these things can be managed, I think where you can overcome those problems.

Roger Bolton:

So from what I can gather in both the instances we've looked at and other cases, the right of the victim, to be involved in the process is one that is large conceded, and will probably grow.

Sir Charles Pollard:

That's right. I would hope that that would happen, and I think there's a, where the this will really move into mainstream criminal justice is where, as restorative justice approaches develop, more and more victims of crime think this is good, get involved and come forward, more and more offenders actually decide they'll plead guilty, rather than trying to take the world on, when they've clearly committed a crime, and that will actually be quite a major turning point for the whole criminal justice system.