

## Repairing the harm in society: the future direction of justice ?

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The point of international exchanges is that we can all learn from each other, and if I were designing a system of justice, I should include for example the Polish use of volunteers, the German use of independent local agencies (*freie Träger*, NGOs)<sup>1</sup>, the Austrian inclusion of restorative justice in its mainstream system (*Neustart*), the standards of the British Restorative Justice Consortium (RJC 2005 a, b, c, d), and from New Zealand the diversion of less serious cases out of the system, the involvement of families and supporters of victims and juvenile offenders, and the judicial oversight of more serious cases. (Some of these features are not universally applied in those countries, and several are found in other countries as well; I have just chosen some examples.)

I am taking for granted the basic principles of restorative justice: that it is based on restoring (or even improving) the situation of the parties as far as possible, providing an opportunity for dialogue between the victim and the offender (if there is a victim and if the offender has been identified), and encouraging the offender to accept responsibility for the harm he or she has caused and enabling him or her to make amends for it.

As we know, the idea of restorative justice has very ancient roots (Zehr 1995), but its reincarnation in the last thirty years began with victim-offender mediation. Since then it has taken on a wider meaning. It is an approach to resolving conflicts and conflict-laden relationships through dialogue, by trying to reach a consensus that is acceptable to all parties to the greatest possible extent. Thus it is not limited to criminal justice, but includes the resolution of disputes which may or may not be classified as criminal (like the incident described above).

The aim is to restore peace and harmony – or rather, to bring the community closer to that condition, because peace and harmony may well not have prevailed in the first place. The condition that we hope to achieve has been described in various languages as *shalom*, *ubuntu*, and *convivencia*. *Shalom* is a term from the Old Testament, usually translated as ‘peace’, but described by Howard Zehr (1995: 130-2) as referring to physical well-being and prosperity, right relationships, honesty and moral integrity in our dealings with one another. *Ubuntu* comes from the Nguni group of languages in South Africa. Archbishop Desmond Tutu (1999: 34-6) describes it as

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<sup>1</sup> We were also impressed by the work of the Stowarszenie Pomocy Społecznej, Rehabilitacji i Resocjalizacji im. Hans-Christian Kofoed (H-C Kofoed Association for Social Aid, Rehabilitation and Resocialization), in Siedlce.

combining generosity, hospitality and compassion: a recognition that each person's humanity is bound up with other people's, and is diminished when they are humiliated. From Argentina, *convivencia* has a similar meaning, described as 'peaceful collective living' (Shearing *et al.*, forthcoming). It would not be a society without conflict: that is unlikely, and would perhaps be rather dull! It would be a society which handled its conflicts well.

What I should like to do is to suggest some further principles which I believe would improve the quality of restorative justice and therefore of relations between people in local communities and in society as a whole. I will group them under six main headings, and then suggest some conclusions.

- Everyone to have access
  - Maximum community involvement
  - Minimum state intervention
  - Treat everyone with respect
  - Quality of service
  - Prevention: who or what needs to change?
- Conclusion: in which direction shall we go?

First let me give an example of how one version of restorative justice can work. As you will see, it has some of the features which advocates of restorative justice would recommend, but not all; I doubt whether any system anywhere has all of them! In the English juvenile justice system, the Youth Justice and Criminal Evidence Act 1999 provides that young people aged 10 to 17, appearing in court for the first time, and admitting their guilt, must be referred to a 'Youth Offender Panel' (with a few exceptions<sup>2</sup>). This consists of two trained volunteers, and one member of staff. There are now over 5000 volunteer panel members. The court can only specify the length of the order: between three and twelve months, depending on the seriousness of the crime; the panel decides how this time will be spent. Even some quite serious crimes can be dealt with in this way.

The panel aims to provide a constructive forum for the young offender to confront the consequences of his crime and agree to undertake a programme of meaningful activity. The principal aim of this is to prevent any further offending. One or both parents of the young person are expected to attend. In addition, other persons may be asked to be present: the victim or a representative of the community, a victim supporter, a supporter of the young person, and a person who, in the opinion of the panel, may have a good influence on the young person. At this meeting, a 'contract' with the young person is drawn up, in which he or she agrees to a programme of behaviour. This may involve meeting the victim (if they are willing and were not present at the first meeting)<sup>3</sup>, making financial or other reparation to the victim, doing work for the community, attending school, staying at home at specified times or staying away from specified places or persons.

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<sup>2</sup> namely, that the offence is not so serious that custody is unavoidable, or so slight that the offender receives an absolute discharge. Also, since August 2003, courts have discretion not to impose referral orders for non-imprisonable offences such as non-payment of fares.

<sup>3</sup> It may be noted that in this case the procedure is not fully restorative, because the victim did not take part in working out the original contract.

This was the story behind one Referral Order:

In a secondary school a pupil had approached the teacher from behind to try to cut some of her hair. The teacher turned round and her hand was cut while she was trying to remove the scissors. The school seems to have been unsympathetic towards the teacher, expressing disappointment that she reported the incident to the police and that she was unable to come back to school immediately. The pupils in this class are considered to be 'difficult' and there is a teaching assistant, but she had been away for two weeks; also, it was the last day at school which meant a 'buzz' atmosphere for the whole school community.

In the preparatory meeting with the teacher a clear distinction was made between the grievance against the young person and the grievance caused by the lack of support for the teacher from the school.

In a Panel meeting the teacher had a frank conversation with the pupil and his father. She received an apology and was impressed that the pupil had gained insight into the consequences. Further discussion led to an agreement that the young person will give a talk to the class in which the incident happened and share with his peers his thoughts and feelings before, during and after his offence and his encounter with the teacher and the panel meeting.

### ***Everyone to have access***

Now I will come to the first of the six principles which I am proposing. Research has shown that restorative justice has much to offer to those who want it (see for example Kurki 2003, McIvor 2004), and therefore it should be accessible to everyone. If the values of restorative justice are to flourish, people should experience them from their earliest years; so we should show children restorative principles at school. The principles of mediation are basically very simple; quite young children have shown that they can mediate between their younger peers, and learn the value of showing and receiving respect for everyone through methods such as 'circle time' (Hopkins 2004: chapter 7). The principles can also be applied in many different situations: within families, in the workplace, between neighbours and so on, and it will be easier to achieve 'peaceful collective living' if there is a mediation centre in each town or district, ideally with a national 'umbrella body' to support them and maintain agreed standards.

When someone was harmed by another person, they would be able to go to the mediation centre rather than the police if they preferred to resolve the matter in that way; arguably this would make the other person less inclined to deny the offence, and both people would be more likely to remain on speaking terms or return to their previous relationship. Any person who regarded him or herself as the victim of a crime could report it to the police; as part of the process, all victims would be offered mediation, if the offender was known and there were no reasons why mediation would not be appropriate. To make sure that they knew what was being offered, initial contact would be made by trained mediators who could explain it well and answer questions. It should not be forgotten that the majority of offenders are not identified;

and so a restorative system should include assistance to victims whose offenders are not caught.

If we maintain that everyone should have access, mediation should be offered not only to victims of juveniles, but also to victims of adult offenders; not only to victims of theft and assaults, but also to those who have suffered at the hands of ‘white-collar criminals’ who commit crimes such as large-scale fraud, causing death and injury by neglecting health and safety precautions. and other malpractices, some of which have escaped being labelled as ‘crimes’

### ***Maximum community involvement***

The second principle is maximum involvement of members of the community. In the early days of restorative justice, Nils Christie (1977) asserted the right of people to handle their own conflicts rather than have them ‘stolen’ by professionals. Therefore the mediation service would ideally be provided by an independent NGO, affiliated to the national umbrella body. If the only possibility is to have a mediation service run by the state or the criminal justice system, it would at least be desirable to appoint an independent advisory committee.

Who should mediate? It follows from Nils Christie’s way of thinking that mediators, too, should be ‘ordinary’ people, or at least a mixture of volunteers and professionals. The more we can do for ourselves, the more control we have over our own lives. Volunteers<sup>4</sup> are likely to be available in evenings and week-ends; they can be recruited from a wide range of social, educational and ethnic backgrounds, so that they bring knowledge of their local community; and they can take their experience back into the community, so that there will be a wider understanding of the problems associated with crime. It could also be argued that the more work is done voluntarily, and the less by the state, the healthier that society will be. If criminal justice professionals such as police or probation officers are to mediate, they certainly need training in the different ethos of mediation, and ideally they should be 100 per cent mediators (as in Austria), and not try to switch from one role to the other

There is also a role for the community, especially NGOs, when an offender makes reparation. It should provide opportunities for community service, which may in itself be rehabilitative, and can show the community that offenders can make a valuable contribution. When the offender’s reparation takes the form of participating in a rehabilitative programme, statutory and non-governmental organizations should co-ordinate their work so that the necessary programmes are available in the community for drug and alcohol therapy, anger management. literacy, vocational skills, anti-violence programmes and so on. This will also help the community to re-accept the offender.

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<sup>4</sup> That is, people acting in their spare time, whether or not they are paid an honorarium.

### ***Minimum state intervention***

The third principle is implied by the previous one: just as there should be as much community involvement as possible, there should be a minimum of state intervention in people's lives; 'as much state as necessary, but as little as possible'<sup>5</sup>. An authoritarian government seeks to bring as much as possible within the ambit of the criminal justice system; a democratic one, as little as possible. We have already seen how community mediation services can offer the first step in handling conflicts. If the state (represented by a police officer, for example) does need to intervene, it may not be necessary to do more than issue a reprimand or warning (as in the Crime and Disorder Act 1998 in England and Wales). This may have conditions attached, and may be combined with mediation (Criminal Justice Act 2003)

Even if the police are obliged to refer the case to the criminal justice process, it is possible for the prosecutor to divert the case to a mediation service; in Germany, for example, the prosecutor should examine at every stage of the process whether mediation is possible, and should even work towards it (Meier 2001: 322). Mediation services should be adequately funded from various sources, so as to preserve their independence, for example by local authorities, and by the Home Office or Ministry of Justice, using money saved by the reduction in the prison population. (There are a lot of assumptions in that statement, but we are talking about the ideal situation!)

The New Zealand idea of 'family group conferencing' shows three other ways of reducing the involvement of the state: Firstly, many juvenile cases can be dealt with by a warning or diverted out of the system to a 'conference'. Secondly, in the conference itself there is a stage at which everyone except the young person's family leaves the room, leaving them to work out a suitable 'action plan'<sup>6</sup>. Thirdly, in the most serious juvenile cases other than homicide which have to go to court, the court still refers the case to a family group conference, which can recommend an action plan; this takes the place of a pre-sentence report, and is endorsed by the court in the majority of cases. This is less than total empowerment of the individuals concerned, but it gives them a considerable say; some may argue that it shows the state's reluctance to let go, but it could also be regarded as a necessary safeguard. It protects the offender against having to make excessive reparation, and gives him a chance to complain if he feels that the mediator was not fair. It also enables the court to restrict the liberty of the offender if that is necessary for the protection of the public.<sup>7</sup>

The next principle is that:

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<sup>5</sup> 'So viel Staat wie nötig, so wenig Staat wie möglich.' Wilhelm von Humboldt, *Ideen zu einem Versuch, die Grenzen der Wirksamkeit des Staates zu bestimmen*. I am grateful to Michael Kilchling for identifying the source of this quotation.

<sup>6</sup> This can be criticised for excluding the victim; on the other hand it may be said that the victim is only legitimately concerned with reparation, and that the family's internal problems are their concern only.

<sup>7</sup> Some would say that the court's sentence can express condemnation of the offence, on behalf of the community, if the victim has agreed to a very small amount of reparation. However, this undermines the empowerment of the victim and the offender to decide what is right for them; and it can be more like retribution than reparation.

### *Everyone should be treated with respect*

This may seem self-evident, and of course it applies in other contexts as well; but in fact the criminal justice system is not always respectful. Victims are given little consideration except as witnesses; offenders are given little chance to explain their actions or to apologize. People from ethnic minorities are more likely to be imprisoned, and less likely to be employed in the criminal justice system. Equal opportunities are central to restorative justice, and training of staff and volunteers should specifically stress this. For example, both victims and offenders should be asked how they wish to be addressed – formally or informally. A mediation service should monitor the percentage of clients, volunteers and staff to compare the proportion from minority groups with that of the local population).

Victims' needs and wishes should be respected; no pressure should be placed on them to take part, and they should be offered the alternative of indirect mediation if they do not wish to confront the offender face-to-face. They should know that if they do not participate, the offender can make reparation to the community, so that their decision will not have an adverse effect on the offender (Wright 1999: 125/139)

For offenders, the process should offer them the chance to consent to participate. If they do not, demands may be made on them in response to the harm they have caused, but this should be done without humiliating them. This is only a limited amount of 'voluntariness', but it does give them a choice. When their humanity is respected, they respond better. Young people are less likely to be reconvicted if they are not rejected and made to feel they are a bad person, if they do feel involved in the decision-making, and if they meet the victim and apologize (this is not just wishful thinking, but has been shown by Maxwell and Morris 2001: 253). This gives them an opportunity to earn reacceptance. Suitable work for community service should be chosen on the basis of their strengths and abilities, not because it is unpleasant, nor even necessarily because it is related to their offence. Two examples:

An interesting reparation placement (used in Devon, in south-west England) is the Headway Clinic. This is a day clinic for people recovering from brain damage caused in all sorts of ways. Young people guilty of assaults or driving offences go on visit of a few hours in which they meet the patient and 'exchange stories' (about the offence and the injury respectively). The visit facilitates two internal processes. For young people it is a direct, undeniable encounter with head injury and the shocking ease with which it can happen. The 'reparation to the community' is that the visit helps the patient to regain their social skills, and to increase their personal confidence and sense of self worth. Thus the programme helps both the offenders and the patients to be reintegrated into the community.

A good reparation programme tries to find the offender's abilities, and encourage them:

One young woman offender in England had a talent for manicure; her community service was looking after the hands of women in an old people's home, and when she had finished the required number of hours, she was offered a part-time job there (personal communications). A remarkably

similar case is reported from the Czech Republic: the offender was a student of hairdressing (Kracik 2005).

It is important that adequate recognition be given to offenders who have carried out community service<sup>8</sup>. They should be thanked, perhaps publicly, and in some cases it would be appropriate to give them a certificate to show what they had done. For some, this will be the only certificate of achievement that they have ever received. Where a group of them had made a contribution to the environment, for example by cleaning a polluted river, this might be recorded on a plaque. It appears however that this is not widely done (Wright 2003).

For both victims and offenders, safeguards are important, and the advice of a lawyer should be available. This would have to be provided at public expense for those who could not afford to pay; consideration might be given to the suggestion that, since this process is not an adversarial one, one lawyer could offer advice to both the victim and the offender (Wright 2002: 665)..

As regards the mediation or conferencing process, offenders (especially young ones) should be given the opportunity to invite a person who is significant to them to take part. In England and Wales this is allowed under the Youth Justice and Criminal Evidence Act 1999, but in the early days only 7 per cent of young offenders were accompanied to a youth offending panel by a 'non-family appropriate adult', although the figure may have improved since then (Crawford and Newburn 2003: 121).

The last suggestion in this section may surprise those who haven't heard it before: that as a symbol of agreement, refreshments should be offered to the participants after mediation. The reason is mainly symbolic of the end of the conflict; also it may fill the gap in conversation while a fair copy of the agreement is being written. The idea comes from an early Australian programme, and is still used by those who follow that model.

### ***Quality of service***

There should of course always be a high quality of service; but restorative justice should certainly do no worse than the criminal justice system, and ideally should aim to do better. One way of showing respect is to provide a good service. If we take it upon ourselves to offer to intervene in people's lives, at a sensitive time when they may be feeling stressed and vulnerable, we should do it to the best of our ability. This includes: what we do, how we measure it, and how we hold ourselves accountable to our clients and to the community.

### ***What we do***

Some of the requirements of a high-quality service are self-evident. There should be good training, preferably by trainers who themselves have hands-on experience of conducting mediations or conferences. Mediators, whether volunteers or professionals, need support, supervision and in-service training. Mediation methods,

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<sup>8</sup> On our visit to Siedlce we were introduced to a prisoner who had been helping to clear up a piece of derelict land. He said that people showed that they appreciated his work, and this greatly encouraged him.

however, are not engraved on tablets of stone, and a method is needed to build on experience and consider how to handle new situations. One way is for mediators to work in pairs, and to finish each session by evaluating their own and each other's performance. It can also be helpful to have a committee (perhaps a sub-committee of the management committee), to keep policy and practice under constant review and suggest ways of dealing with particular types of case. This has the added advantage of involving the mediators more closely in the operation.

One indicator, showing how restorative a programme is, is the way in which offenders are dealt with when they breach their agreement, for example by failing to make reparation. There is a tendency in England to try to be 'tough', saying in effect 'You've had your chance, now you will be punished.' In Northern Ireland, however, I was told of a more restorative approach. The young person would be asked to an interview (or in some cases a re-convened 'conference'), and asked why he or she had not completed the agreement. Had their circumstances changed? Was the reparation excessive? If necessary, adjustments could be suggested. The young person would be asked if they agreed to this, and if they understood that they could choose to go to court instead. This is not exactly a voluntary process, but it does offer the young person a chance to give or withhold their informed consent.

#### *What we measure*

In England, there have been repeated complaints that when the government sets targets for performance, these can distort the practice, and often make restorative actions more difficult. For example, a youth offender panel should take place within 15 working days of the court order; but this does not allow enough time for the victim and other participants to be approached and to decide whether to take part, and a meeting arranged, with the result that in the first months only 13 per cent of victims attended a panel (Crawford and Newburn 2003: 185). Another problem is the sheer number of targets: YOT<sup>9</sup> managers are supposed to meet 341 criteria (Youth Justice Board 2004); this is simply not possible, so they choose which ones they will try to meet, and as a result different YOTs meet different standards (Guy Masters, personal communication). The number of bureaucratic targets should be drastically reduced, by selecting those which make the process more restorative. If a case is dealt with by mediation rather than by prosecution and conviction, the police and prosecutor should still be able to record it as a case 'cleared up' successfully.

The need, therefore, is for performance indicators that show how restorative the service is and how well it is working. This means that follow-up information should be routinely monitored. 'Restorativeness' is difficult to measure, but some of the points mentioned here will give an indication.

Some of the measurements of the quality of the process are:

- a) % of victims contacted. This indicates whether the service is available to everyone.
- b) % of victims agreeing to mediation. This figure may never reach 100 per cent, because victims are free to make their own decision; but as the majority of victims find mediation or conferencing helpful, one measure of the mediation

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<sup>9</sup> Youth Offending Team: a group in each locality with representatives of the criminal justice, education and health agencies, providing services ordered by courts and preventive work.

service's success is whether it has explained the process in a way which lets the victim understand the possible advantages.

- c) % of victims and offenders satisfied: Naturally it is important for victims to feel that their case has been handled well (although there may be a question as to whether they tell the interviewer what they think he or she wants to hear). But it is also important that offenders should feel that they have been fairly treated, if they are to want to be re-integrated into the community.
- d) % of agreements fulfilled fully/partly. As we saw above, there can be many reasons why agreements are not fulfilled, but successful completion is likely to indicate that the agreement was acceptable in the first place, and that the offender should receive adequate support in carrying it out.
- e) % re-offending. This is often the first question that politicians ask. So far the answer has generally been that there is a slight improvement, but not a statistically significant one (e.g. Kurki 2003: 296). There are two responses to this: that so long as reconviction rates are not worse, restorative justice is justified by the other benefits, especially for victims; and that one needs to ask whether restorative justice was indeed fully implemented, or whether in practice its principles were distorted to make them fit a conventional, retributive philosophy. Cinderella would not be able to dance very well if she were forced to wear the shoes of her ugly sister.

Some of the criteria are less easy to quantify:

- f) Are the victims' needs identified, and do they receive adequate support in meeting them? This can include medical, psychotherapeutic or financial assistance, or simply the friendly reassurance of a victim support volunteer.
- g) If offenders undertake to pay compensation, is it proportionate to their ability to pay as well as to the damage caused?
- h) If they undertake to work (for the victim or the community), is there a range of tasks suitable for their abilities?
- i) If offenders undertake to make reparation by undergoing education or treatment, are adequate facilities provided, within a reasonable time, to enable them to do so, and do they receive adequate support and motivation?

### *Accountability*

It is common to say that in restorative justice the offender should be held accountable for what he or she has done and, as I have just suggested, the restorative justice service should also monitor its own practice to make sure that it is giving the best possible service to victims and offenders. But there is another form of accountability: from the mediation service to the community. It would therefore be good practice to issue an annual report, to let the community know what is being done in its name, and how much it has cost – or saved. Some restorative justice programmes already do this. If there is a national umbrella body for mediation, local services would be asked to send it their annual reports, and these would form part of the routine monitoring process. The annual report can also show how far some of the above ideals have been fulfilled, for example by stating the proportion of clients and mediators from minority ethnic groups, as compared with the local population – and if there is a discrepancy, saying what action is being taken to correct it. It is all the more important because the general public is not normally admitted to mediations, although the families and supporters who take part in 'conferencing' are members of the public, and so are volunteer mediators. By doing this the 'restorativists' are one step ahead of the

criminal justice system: in England at least it is not usual for a court to issue a report which informs people of the cost of the prison sentences that the court has imposed, or the number of ex-prisoners who re-offend; to say nothing of the side-effects ('collateral damage') – the number of children who have been made fatherless (or motherless) because a parent has been sent to prison.

The restorative programme also needs to be explained to the public in other ways, particularly by giving examples of how successful it can be (with due regard to confidentiality). There is also a continuing need to keep criminal justice professionals informed, through their in-service training and by including it in their basic professional training.

### ***Prevention: who or what needs to change?***

The sixth and final principle is that the system should *be* a system, in other words it should provide feedback from which we can all learn what corrective action we need to take. Conventional courts are very formal, and their procedure is directed to the questions 'Is the defendant guilty and if so how should he or she be punished?' In this context it is in the defendant's interest to admit as little as possible; punishment is the enemy of truth. Offenders have little chance to explain why they committed the offence, and if they do, it tends to sound like an excuse, in order to be given a lighter sentence. In restorative justice, on the other hand, the process is relatively informal, and participants are encouraged to speak more freely, knowing that by speaking openly they are more likely to be able to 'wipe the slate clean'.

What they say may have implications for crime reduction. This may be purely at the level of situational prevention; for example, one large retailer of compact discs changed its security system, after two shoplifters told them how easy it was to steal CDs from their shops (Guy Masters, personal communication). More significant, though, are the changes which could be made in the social environment. In England, for example, one volunteer from a youth offender panel was 'so concerned about one of the schools [where many young offenders were pupils] that he has been to speak to the governors [of the school] and almost issued them with an ultimatum to start putting their house in order.' (Crawford and Newburn 2003: 152).

This idea has been developed in the Community Peacemaking Programme (CPP) in South Africa, in a township called Zwelethemba ( a Xhosa word that means 'place or country of hope') and elsewhere. Conflicts, which may be non-criminal and/or include serious violent crimes, are brought to the peacemaking committees to be resolved. Members of these committees include men and women of all ages from the township. For each case that the committee handles, it receives a small amount of money from the CPP. This is then used for *peace-building*, by various methods such as loans to start small businesses and create employment, to building a children's playground (Roche 2003: 264-6, Shearing *et al.* forthcoming). Admittedly this only brings about changes at the local level; but in due course, there should be procedures for making known the need for structural change nationally.

It is important for an organization providing restorative justice to understand it from the inside. This means that its own processes must themselves be restorative.

Decision-making should as far as possible be by consensus. For both clients and staff there should be a complaints procedure which includes the possibility of mediation at an early stage; and the same is true of the disciplinary procedure for staff.

### ***Conclusion: in which direction shall we go?***

We have to be careful about designing Utopias; few if any of us have the wisdom to plan one that would really work. But at least we should have an idea in which direction we wish to travel. I suggest

- making restorative justice (including victim-offender dialogue, not just reparative work) available everywhere to victims and offenders who want it, by promoting nationwide coverage of mediation services
- encouraging community involvement, for the above reasons
- diverting more cases to restorative justice, including 'white-collar crimes'<sup>10</sup> and crimes of the powerful, and making the remaining system progressively more restorative.

It could be part of a larger campaign to get RJ and VOM more widely known, so that people would want to have it in their own neighbourhood. Does this have to be done from the top down? Is it fanciful to imagine a situation where victims who know who their offenders (as many do, especially with violent crimes) are asking 'Why wasn't I offered mediation?' And likewise, social workers, probation officers, friends of victims and so on could ask 'Is there a victim-offender mediation service locally, and if not let's start one'. Or if there is a neighbourhood mediation service, see if it could take on VOM as well, by inviting its volunteers to take a conversion course to transfer their skills from one kind of mediation to another. The more it is used to divert cases at an early stage, the more it will save in court costs /delays and even prison costs.

One word often used by restorativists is 'transformation'. Under conventional criminal justice, the idea was to transform the offender into a law-abiding citizen, whether through threats (deterrence) or rehabilitation. Restorative justice wants to transform the way we respond when one person harms another (Lederach 2003). It is often said that it holds the offender accountable for the harm he or she has caused. But you may have noticed that I have suggested more than that. 'We', the service providers, should also be accountable to our clients and to the public, for the quality of the service. we should use the process to learn what changes *we* need to make in our community. That will already require a considerable effort.

But let me take this a step further, with a simple example. Suppose there is a road with a sharp bend where there are very frequent accidents, in which cars are driven into the wall of a house. The drivers of the cars that cause the accidents are to blame; they should have taken more care, like all the other drivers who do not have accidents. Their cases are dealt with in a restorative way, they meet the owner of the house and agree to pay for the repair of the wall, but in addition they explain why that road is dangerous. What is the most effective way to make it safer? To impose heavy penalties on people who have accidents, or to re-design that part of the road? If

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<sup>10</sup> For example, the widespread employment of accountants to find loopholes in tax legislation can undermine the principles of democracy – not to mention outright tax fraud (*Guardian* 5 9. 2005).

unemployed miners steal coal from trains, is the best answer to threaten them with imprisonment, or to provide them with work? (Easier said than done, of course, but we are looking for the *direction*; the solution may take a little longer.)

By improving justice so as to make it more restorative, we can not only offer reparation to the victim, and enable the offender to earn re-acceptance by making reparation. We can provide the opportunity for a dialogue between professionals and members of the community, those with university educations and those who are graduates of the university of life. This can enable them to consider not only each individual case, but the whole range of cases that are brought for resolution, so that they can see the social deficits that lie behind so much of the conduct that is labelled 'crime', and draw attention to them so that they can be changed. It shows how to improve the situation of the victim, how to enable the offender to be a full contributing member of society, and how our society itself can be improved for the benefit of all of us.

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