



ACJRD

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Restorative Justice

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Overview

- Introduction to RJ
 - Definitions, contrast with criminal justice
 - Objectives, values
 - Benefits, limitations, concerns
- Programmes and developments in Ireland
- Victim perspective
- Offender perspective
- Achieving potential - challenges



RJ Definitions

- a process whereby parties with a stake in a specific offence resolve collectively how to deal with the aftermath of the offence and its implications for the future (Marshall)
- a victim-sensitive response to criminal offending, which, through engagement with those affected by crime, aims to make amends for the harm that has been caused to victims and communities and which facilitates offender rehabilitation and integration into society (National Commission on Restorative Justice , 2009)
- any process whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party (Directive 2012/29/EU, art.2)



Conceptual Variations

- Not a single RJ approach
 - mediation/dialogue
 - conferencing
 - sentencing circles
 - citizen panels

➔ continuum of restorativeness
- Not a single envisaging of RJ
 - outcomes vs process
 - alternative or complement?
 - transformative possibilities?
- Other restorative interventions
 - e.g. victim awareness programmes/
victim panels/ healing circles



Basic precepts - understanding wrongdoing

- 2 Contrasting Views
- Crime as a violation of law and the state
- Violations create guilt
- Justice requires state to determine blame and impose pain
- → central focus is offenders getting what they deserve
- Crime as a violation of people and interpersonal relationships
- Violations create obligations
- Central obligation is to put things right
- → central focus is victim needs and offender responsibility for repairing harm.



RJ Goals and Values

- repairing harm
- restoring relationships - 'offender' and 'victim' roles temporary
- re-integrating
- reducing re-offending
- building community

- healing
- democracy, social support, solidarity
- inclusiveness
- non-dominated speech, dialogue
- flexibility, informality
- respect
- fairness
- confidentiality
- voluntariness
- personal accountability
- facilitator neutrality
- caring, love, reconciliation
- compassion, redemption, forgiveness, mercy

- interconnectedness
- particularity
- respect (single most important)



Claimed Benefits

- Victims: meets needs much better
 - A less formal process where their views count
 - More information about processing and outcome
 - Participation in their cases
 - Treated respectfully and fairly
 - Material restoration
 - Emotional restoration, especially apology
- Offenders: although tougher option, can regain respect of community rather than its perpetual scorn
- Community: offenders less dangerous, cheaper system, citizenship fostered

Johnstone (2002) Strang (2002)

Satisfaction rates higher
Recidivism rates lower
Community enrichment



RJ Concerns and Uncertainties

- ‘Trivialisation of evil’
- Loss of security/protection
- Protection of rights and well-being of offenders
- Protection and promotion of victim interests
- Accountability
- Nature and proportionality of sanctions
- Role of punishment/extent of punitiveness
- Unwelcome net widening
- Weakening already weak parties?
- Effectiveness re deterrence/recidivism
- Definition and role of community; communities of care, etc.
- Role of State professionals
 - especially police – undesirable extension of power?
- Ultimate aspirations of R J
 - alternative or supplement



Restorative Questions

1. What happened?
2. What were you thinking of at the time?
3. What have you thought about it since?
4. Who has been affected and how?
5. How could things have been done differently?
6. What do you think needs to happen next?



Offender Reparation Panels Contracts – Potential Elements

1. Reflective piece on who was affected and how, what have learned from the experience and what would do differently
2. Meeting victim or representative or victim service and/or letter of apology
3. Letters of apology to indirect victims
4. Victim awareness programme
5. Reparation to any direct victim
6. Charitable donation
7. Voluntary work
8. Programme to begin addressing causes of behaviour
9. Researching and writing on effects of alcohol or other substance abuse, links between drugs and crime, the impact of anti-social behaviour or other topics relevant to the offence
10. Commitment to being of good behaviour
11. Other

Current Use in Ireland - Children

Children Act 2001

- **Garda Diversion Programme: S26, S29**
 - 1,036 cases in 2012, victim invited
 - not restricted to first time offenders or minor offences
 - Garda gate-keepers
 - Garda facilitators
 - positive results from evaluation in 2002/2003
- **Court: S 78**
 - 36 conferences in 2015, 36 in 2014, 50 in 2013
 - Court referrals
 - Probation Service facilitators

Some local services also offering RJ interventions as part of probation supervision e.g. Le Chéile in Limerick

Current Use in Ireland - Adults

- **Restorative Justice Services** greater Dublin
- Offender Reparation Panels, VOM
- Probation-funded
 - c. 300 cases annually, referrals from District/Circuit court
 - panels comprise Garda, Probation and community reps
 - case workers assigned to each offender
 - first panel: discussion, agreement
 - second panel: review progress
 - return to court for disposal; agreement taken into account
 - may entail victim offender mediation
- **Restorative Justice in the Community**
South/South West
 - Offender Reparation Panels, VOM, conferencing
 - Probation-funded
 - average 15 cases per annum 1999–2007; higher since; referrals from District Court
 - panels comprise Garda and community reps
 - case worker for each offender
 - single panel hearing



National Commission recommendations

- Roll out nationally by 2015
- Broad range of offences
- District and Circuit court level
- Exclude most serious offences (e.g. sexual offences, domestic violence) at least initially
- Include sentences of up to 3 years
- Legislative footing, mandatory
- Court referrals initially
- 3 different models envisaged
- Apply at different stages of criminal justice system
- 3,650 - 7,250 cases per annum



Recent Developments

- National Commission blueprint for development?
- Probation Service strategy 2013
- Probation Service
 - work with victims of sexual violence
 - bespoke RJ applications, integrating RJ in practice
- Geographical expansion
- Tackling more serious offences
- Cross-party political interest
- Academic interest
- Research on use of RJ relating to sex offences
- EU Directive 2012/29
- Criminal Justice (Victims of Crime) Bill, 2015
- Criminal Justice (Community Sanctions) Bill, 2014
- Use of restorative practice in other domains
 - Restorative Practices Ireland
 - Use in schools, youth work, communities, etc.
 - Probation projects e.g. Limerick: Le Chéile, Céim ar Chéim

Victim Perspective

- Less fearful of offender
- Less angry
- Less vengeful
- Less anxious about why victimised
- Less depressed
- Less fearful of going out
- Less worried about meeting someone like offender
- More sympathetic to offender *Strang 2002*
- Garda programme
 - 93% satisfaction
 - 65% participation (76% of offences with direct victim)
- No good time for crime, certainly can be a bad time
- Reactions to crime very individual, no stereotypical victim
- Can get information not otherwise available
- Victim voice important, system should respond to their needs
- Beware victim veto
- View of victim support groups?
- No requirement in EU Directive to provide RJ
- No effective provision in Victims of Crime Bill 2015 re RJ

Offender Perspective

- Evidence from Garda programme
 - Satisfaction: 4.55 on scale of 1-5; 63% gave score of 5
 - Glad took part : 4.71; 76% gave score of 5
- Case selection: Remorse v potential for remorse
- “Trust the process”
- Not always deemed suitable
- No stereotypical offender: flexibility required
- Repeat offenders: may be at point of readiness for change
- If re-offends, consider all options including restorative justice
- Offenders appreciate opportunity to be heard
- Offenders can see criminal justice professionals in more favourable light

Re-offending

- Lack of studies with suitable control groups
- No negative impacts
- Shapland et al 2011 (UK)
 - Significant decrease in the frequency of re-conviction over 2 year period (14%)
 - Lower reconviction rate but not significant
 - JRC project 47%-51%
 - REMEDI 44%-48%
 - CONNECT 37%-49%
- Aertsen et al, 2006: Growing number of studies demonstrate a modest but positive effect
- Latimer et al, 2001: meta analysis of 32 international studies found average seven percent reduction
- Sherman et al 2000: RISE projects in Canberra – 38% decrease in re-offending for youth violent cases, no net reductions re shoplifting or personal property crime cases and increase in drink driving cases



Current Situation

- Very limited access for adults geographically
 - Limited models availability for adults (mainly reparation panels)
 - Limited points of entry
 - Few victim initiation possibilities
 - Public awareness and acceptance?
 - Professional acceptance?
 - Media portrayal?
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- Is it good? relevant? feasible?
 - If so, how do make the jump? what's holding us back?
 - What safeguards are needed?
 - How can it be organised?