

RJ article / editorial

This Special Issue of Safer Communities, guest edited by Gareth Jones, Chair of the Association of Youth Offending Team Managers and myself, is concerned with restorative justice (RJ). We consider its application in a number of specific contexts, and some related theoretical and practical issues.

To do so now is certainly opportune. RJ has been (or so has been the intention) a key component of our youth justice system for the last fifteen years, with the Government setting out plans to develop 'a more strategic and coherent approach to the use of restorative justice in England and Wales' across the whole criminal justice system (HM Government, 2014) [note: this strategy was drawn up by the Coalition Government but remains part of the agenda of the new Conservative administration]. An example is the piloting of RJ prior to sentence in a number of crown courts (see Creaney & Jones, this publication). Meanwhile, the implementation of a Restorative Justice Quality Mark to promote the use of restorative justice in a consistent and high quality fashion has recently received the endorsement of the Ministry of Justice (Restorative Justice Council, 2014).

The appeal of RJ is understandable. It purports to offer a way of resolving problems which directly involves the parties affected and which according to a number of studies, is capable of leaving all satisfied and better off as a result, while at the same time reducing re-offending (see eg. Strang et al (2013), Shapland et al, (2008), Sherman & Strang (2007)).

On the face of it, RJ is a simple idea, originating in (largely) long gone, simpler societies; bringing together the instigator and sufferer of harm to resolve an issue/problem between them, rather than forcing them through the complex mechanisms of modern criminal justice. Yet this simplicity is deceptive: a range of complications need to be taken into account in the delivery of RJ, particularly in the context of adversarial British justice systems which are set up precisely to take matters out of the hands of those directly affected. Poorly managed, RJ is capable of adding to the harm experienced by the parties involved, or at any rate such implementation can tarnish the perception of RJ and hence undermine the scope for its continuing positive application.

Nor should it be taken lightly by any party to it. A letter to *Insidetime*, the national newspaper for prisoners and detainees, from a convicted sex offender makes this point. Stressing that RJ must be victim-led, Stephen Gale (2015: 6) states that,

“restorative justice is not an ‘easy fix’; it breaks your heart and makes you detest yourself. It takes years to get to a point where you feel that you are becoming a good person again.’

Some of the situations in which RJ is now being applied involve a range of considerations not all of them mutually complementary. Particular dilemmas arise for criminal justice organisations given responsibility for dealing with both victims and offenders. Youth offending services for example have, since their advent in 2000, been expected to work restoratively in their efforts to 'reduce offending by children and young people' (Crime & Disorder Act 1998, s.37). Depending on how this work is organised, there is a potential conflict of interest here, with the attendant risk that victims can be put under undue pressure to participate on the basis of potential benefits to offenders (exacerbated under the highly target-driven regime of the early days of the new youth justice system); or on the other hand that the various demands associated with work with the offender relegate victim concerns to a position too low on the priority list to ever be taken up - seen as an add-on, rather than part and parcel of central task. The culture as well as the processes have to be right to ensure a truly restorative focus.

Adoption of restorative techniques in recent years by the police has raised similar issues for them as highlighted in the article by **Ellie Acton**. The delivery of RJ by trained police officers as an alternative to prosecution by young, relatively minor offenders has played its part in significantly reducing the numbers of young people unnecessarily caught up in the criminal justice system, whilst providing some of them with valuable lessons. However, as Acton shows, it has been used by some officers as a way out of the time-consuming bureaucracy which goes with taking a case to court; youth offending service practitioners report that some young people in such cases have been blissfully unaware of having received a restorative disposal, or any disposal at all. Such practice brings RJ into disrepute, as does the 'postcode lottery' aspect of police RJ which is Acton's central theme. The very fact that RJ requires agreement from both parties to go ahead means that it will never be universally applicable. However, as Acton argues, there needs to be a consistent framework in which it is offered for it to be genuinely just.

Other complications arise in those cases in which the formal criminal justice system is invoked. Initiating RJ with an offender who is already serving his or her sentence, whether in custody or the community is one thing; doing so with someone who is awaiting sentence, as in the current Crown Court pre-sentence RJ pilots is quite another. Potentially it offers the opportunity to bring offenders into the restorative fold, from which all parties stand to gain; but it can also be seen as inviting unmotivated offenders to play the system, resulting in spurious restorative interventions in which victims may be exploited for the benefit of offenders. In their article, **Gareth Jones and Sean Creaney** assess the ethics and potential value of this initiative, whilst also exploring the delivery of RJ within our youth justice system

Phil Edwards' conceptual article explores in more detail the complexities of how and where RJ can be fitted in or alongside our criminal justice system. In doing so he raises important questions about how it achieves impact and who benefits,

laying much stress on the interdependence of victim and offender in the process.

His consideration of the 'how' question includes some thoughts on the mechanisms by which RJ can contribute to desistance from offending.

Desistance, alongside RJ, is one of the key ideas to have been explored in criminology in recent years, and the relationship between the two is further considered in **Rachel Horan's** timely paper which considers in some detail the psychological processes involved. Like Edwards, she stresses an interplay, but in this instance she is looking at how successful RJ, and desistance, is supported by the accumulation of mutually beneficial social and personal capital.

Finally, **Paul Gavin's** article illustrates the increasing influence of RJ internationally by tracing its 'slow and steady' development in Ireland. Competing policy imperatives facing Governments are discussed. It is interesting to note Gavin's identification of the necessity to overcome a penal populism which threatened to hold back the expansion of RJ before it could begin to take hold there. Similar considerations have played a part in the dilution of previous British Government plans to further develop RJ in the UK (as witness the inaction which followed New Labour's consultation in 2003 on a strategy on RJ from which they envisaged 'a growing role for restorative approaches in tackling crime and strengthening society' (Home Office, 2003: 5)). It remains to be seen how the present Government will take forward the stated policy of its coalition predecessor to 'make [victim-centred] Restorative Justice available at all stages of the Criminal Justice System' (MoJ, 2013: 18).

There is, of course another ever-present imperative in all current Government policy and initiatives: that of saving money. RJ is often touted as a cheaper alternative to conventional criminal justice, but this can be deceptive. It is no doubt cheaper to run than the panoply of courts, prisons and other criminal justice institutions, but except in limited circumstances, is not going to be replacing these but running alongside or within them. When done properly, with full assessment, preparation and support for the parties involved, it is more, not less, intensive than many conventional interventions.

As has been suggested here, both establishing RJ, and then maintaining and further developing it in a criminal justice context which runs against so many of its key principles is no easy matter. It is hoped that the papers presented within this special edition of *Safer Communities* will prompt thought and discussion as to the ways in which this may be done – and the value of doing so. It is perhaps no coincidence that this aspect is alluded to in four of our five papers: Gavin notes that the emergence of RJ in Ireland has occurred 'amidst austerity'; the pieces by Edwards and by Jones & Creaney both refer to potential attractions of RJ as a low cost option; and significantly Acton relates how police RJ has continued in the face of austerity, albeit with less investment to ensure its proper delivery.

This must be the concern. The articles contained within this journal demonstrate the point that RJ is not the simple concept it might at first appear to be. Both establishing RJ, and then maintaining and further developing it in a criminal justice context which runs against so many of its key principles is no easy matter. Its continuing development needs to be informed by the constant reminder that it should be done properly or not at all. RJ should be taken forward because it is worth doing, and not simply to make financial savings. It is hoped that the papers presented within this special edition of Safer Communities will prompt thought and discussion as to the ways in which this may be done – and the value of doing so.

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