Better criminal law or better than criminal law?
What restorative justice offers to victims and offenders

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Now is an exciting time to be involved in the field of justice, because the way we look at it is changing, and the Building Bridges (BB) programme is part of that change. My own involvement has been mainly with restorative justice, in which BB could be included. There is more work to do, to gain wider acceptance of the new approach, and constantly to improve our practice; in addition, we need to think about how different parts of the movement can work better together. The next question is how both restorative justice and Building Bridges can work with the existing criminal justice system, which is still mainly based on traditional ways of thinking; and finally, looking further ahead, can they even (at least partly) replace it? This is the question suggested by my title, 'Better criminal law or better than criminal law?' which is taken from the German academic lawyer Gustav Radbruch[1] (1878-1949).

Outline

Criminal justice has progressed from merely punishing offenders: it has added the idea of 'rehabilitating' them, and more recently taking note of victims and involving them in the way offenders are dealt with. This is part of a new understanding in which the focus of criminal justice should not be on retribution but on repairing the harm caused by the crime, which is called restorative justice (RJ). It may be helpful to define terms, because they are not always used in the same way. I will use 'restorative practices' as the overarching term, with 'mediation' as conflict resolution through dialogue with facilitators, and 'restorative justice' for the same when the criminal justice system is involved. RJ is, firstly, a new structural approach, which can be practised in different ways. In the main version, individual victims and offenders can meet, sometimes in a 'conference' with other people present who were affected by the crime. We could call this 'individual RJ'. The Sycamore Tree model, used by Building Bridges in several countries, brings together representative victims and offenders in cases where the 'real' ones do not wish to participate or cannot be found. We may call this 'surrogate RJ', and we will say more about it below[2]. Secondly, RJ works on a different psychological principle: the authoritarian idea based on behaviourist notions of controlling behaviour by fear and the threat of punishment is replaced by the recognition that people reciprocate when they are treated with respect and empathy (Baron-Cohen, 2012; Wallis, 2014).

[1] "[N]icht die Verbesserung des Strafrechts, sondern der Ersatz des Strafrechts durch Besseres, durch ein 'Besserungs- und Bewahrungsrecht' " Cited in http://criminologia.de/2009/11/gustav-radbruch-1878-1949/ , accessed 17 October 2015: 'Not the improvement of the penal law, but the replacement of the penal law by something better, by a reformative and preventive law' (Transl. MW).

[2] Daniel Van Ness questioned the term 'surrogate', in his presentation to the conference, on the grounds that it means a person who acts *on behalf of* someone else.The dictionary meanings include 'substitute'. No better term has suggested itself so far.

We will look at when individual RJ can be used, what is needed to make it work, especially legislation and infrastructure, and what to do when it cannot be used: one possibility is surrogate RJ, the Sycamore Tree Project (STP) method. Then we ask the same questions about STP.

Both individual RJ and STP can be used as community-based measures as well as during or after prison sentences (Johnstone 2015:12), and many will hope that they are steps towards reducing the over-use of imprisonment which is wasteful both of money and of human lives. Finally we will point to ways in which RJ, including STP, could be extended beyond criminal justice to other fields, such as neighbourhoods, workplaces and especially schools, as we work towards building a restorative society.

1. Introduction

An ancient idea, perhaps even an instinct, is that when people break the law, those in authority inflict pain on them. The underlying assumption is that people are motivated into acceptable behaviour by fear. There was also some early recognition of the idea of reparation: Zacchaeus, for example, in the biblical story, said that if he falsely accused anyone, he would make restitution fourfold (Luke 19: 1-10). But increasingly punishment became the norm - so much so that in several languages the law relating to wrongdoing is not called 'criminal law' but 'penal law' (*diritto penale*, *Strafrecht*, and so on: Wright, 2013b). The seriousness of a crime is measured, not by the harm done to the victim but by the maximum amount of punishment the government has decreed by legislation and the amount actually imposed by a judge.

Philosophers found various justifications, such as that it will deter offenders, which it frequently doesn't, or that it is self-evident that wrong-doing should be followed by punishment, although many of us would regard it as equally self-evident that causing harm should be followed by putting right the harm or making up for it, which could be called 'reparative law'.. Another idea is that the length of a prison sentence is based on assessing culpability and harm (and then taking account of aggravating and mitigating circumstances and personal mitigation). It bears no relation to the length of time required to 'reform' the offender - even assuming that prison was an appropriate place to attempt that.[3]

2. Victims become visible

Around the 1970s people became aware that much attention was focused on perpetrators while victims were being ignored (Wright, 1977). Organisations to help victims were set up in several countries; the British one, Victim Support, received many complaints about the way in which victims were neglected by courts and prosecutors except as witnesses in a trial. It published a report (Victim Support, 1988) which did lead to some reforms, such as the Witness Service which was established in 1994. But in 2015 there were <u>still</u> complaints that 'Victims, witnesses and defendants alike can find appearing in court terrifying, humiliating or frustrating – or any combination of these' (Jacobson et al., 2015: 18). Early attempts at victim-offender mediation[4] were suspected of 'using' victims for the benefit of offenders, but at least they encouraged offenders to think of their victims, not only of themselves. Now the approach is more balanced, although sometimes the supposed wishes of victims are still used as a justification for punitive attitudes and harsh treatment of offenders. Victim Support now endorses R.J and its benefits for victims, offenders and the community (Victim Support, 2014).

a. A new structural principle

The idea of restorative justice using victim-offender dialogue has developed in two ways. One is a

[3]In England and Wales, the Criminal Justice Act 2003 lists five different, and in some ways incompatible, purposes of sentencing: punishment, crime reduction (including deterrence), rehabilitation, protection of the public, and reparation.

[4]This paper will make no hard-and-fast distinction between victim-offender mediation and individual restorative justice.

new structural principle, namely that instead of using professionals, people can resolve their conflicts themselves, with the help of mediators. Nils Christie (1977) famously wrote that the professionals have 'stolen' the conflicts. Mediation returns them to their owners, including victims and offenders. People who worked with offenders, rather than merely theorising about them, saw that many of them suffer from disadvantages in their education and upbringing, and their prescription was to 'rehabilitate' them; in many ways this was relevant to their needs, but while punishment was based on the idea of doing things 'to' them, the new insight was that 'people are happier, more co-operative and productive, and more likely to make positive changes when those in positions of authority do things *with* them, rather than *to* them or *for* them', as Ted Wachtel of the International Institute for Restorative Practices has pointed out (Wachtel, T., 2013: 8).

b. A new psychological principle

This provided a new psychological basis. The authoritarian idea was based on behaviouristic notions of controlling bad behaviour by fear and the threat of punishment, although for many people there was little reward for good conduct. As noted above, it is replaced by the recognition that people reciprocate when they are treated with respect. This introduces a new principle into criminal justice: not fear and punishment, not rehabilitation and treatment, but dialogue and *empathy*. This word itself is relatively new; the Oxford Dictionary records it as occurring in 1912, although the German *Einfühlung* came first, but I don't know when it first appears in restorative justice literature. The interesting thing is that empathy tends to be mutual: the offender feels the pain he has caused to the victim, and often the victim feels the painful background from which many offenders come. This can transform their anger and other feelings.[5]

3. The restorative ideal

This is part of a new understanding that the focus of criminal justice should not be on punishment but on repairing the harm caused by the crime. The second part of the idea, which is not always possible, is that the victim can meet the offender one-to-one, in mediation sessions, or with others affected by the offence, in 'conferences'. The restorative movement:

a. recognises the harm experienced by victims;

b. makes it possible, under the guidance of facilitators, for victims to tell offenders the effects of what they did, ask questions, and also learn about the offenders;

c. encourages offenders to recognise the harm suffered by the victim, and make some form of reparation; and

d. in this way it bases society's response on making things better for the victim, and also for the offender if he or she needs it.

While originally RJ was used in the sense of an encounter between victims and offenders, such as in mediation, that concept has been considerably widened in recent years to include a variety of measures aimed at reparation of harm in daily life, and even includes such practices as those aimed at reparation of violations of human rights and historical injustices. What they have in common is the way in which dialogue is used, for example in 'non-violent communication' (Rosenberg, 1999).

4. Restorative justice in practice

There are different ways of carrying out RJ. Individual RJ includes victim-offender mediation or conferences (which may bring in a wider circle of people affected by the crime), but this requires the victim and the offender to come together in the same room. 'Shuttle' (back-and-forth) mediation is

[5]More evidence is needed about possible effects on offenders from a privileged background if they were to meet those who were harmed by their financial malpractice, environmental destruction, sale of inadequately tested pharmaceuticals and other exploitation (Braithwaite, 2002; Wright, 2013a: 383-5).

also possible, but the evidence (Shapland et al. 2011: 98-9) suggests that it is less effective than face-to-face, and that when the victims and offenders are offered only the face-to-face option, they generally accept it. RJ doesn't always require the parties to be labelled 'victim' and 'offender', and can be extended to non-criminal cases. Surrogate RJ (STP) is an extension of this, bringing together victims with groups of offenders whose crimes were committed against other victims, and using a different format (see Section 5 below).

The overall case for restorative justice has been persuasively made; there is a large quantity of research showing not only that the great majority of victims and offenders find it helpful, but also that it reduces the amount of offending (Shapland et al., 2011). Research is also being carried out on why it works (Rossner, 2013) and how to implement it (Walters, 2014; Thorsborne and Blood, 2013). In this paper I want to focus on when individual RJ can be used, and what is needed to put it into practice. Then we can ask the same questions about the surrogate version of RJ used in the Sycamore Tree Project (STP), described in Section 5 below.

a. When individual RJ can be used

The first way in which RJ can be used is to keep cases out of the criminal justice system altogether. (It is then often called 'restorative practices'.) There are many cases where it is in the best interests of their relationship to treat the matter as a civil dispute: the criminal justice process is 'civilised' (Wright, 1982: 249-50; Cornwell et al., eds, 2013). Often this is preferable, especially when the case involved a dispute (or even a fight) between individuals who know each other.[6] Both may have contributed to the conflict, so it is not always necessary to identify one as the offender and the other as the victim, and thus neither is responsible for causing the other to have a criminal record, with all the consequences that that may entail later in life. This is an exception to the principle that one person must admit to committing an offence before RJ can take place: the focus is not on determining blame, but with the help of the mediator they can reach an agreement about their future conduct, compensation or an apology if appropriate, or to continue (or discontinue) their relationship.

In jurisdictions where RJ is the norm, at least for juveniles, cases are referred automatically; there is no need for someone to check the list of cases to select suitable ones. Instead, the facilitators check, usually through an interview, to assess which cases are not suitable (e.g. likely to victimise, or be re-victimised by, the other person). These may be considered for the STP, or referred to the court.

Once a case has entered the criminal justice process, a feature of individual RJ is that it can be used at any stage. If legislation permits, the prosecutor may defer prosecution to allow an opportunity for a restorative settlement. Similarly, the courts can defer sentence: in England and Wales they can defer passing a sentence to enable restorative justice to take place (where both victim and offender are willing to participate) (Restorative Justice Council 2014).

When the accused admits guilt or is found guilty, the court can impose a non-custodial restorative sentence, under the Offender Rehabilitation Act 2014, but only if facilities are available. This can involve a restorative meeting if victim and offender are willing, or a partly restorative measure such as a reparative activity.[7] Lastly, if a prison sentence is imposed, a restorative meeting can be arranged during or after the custodial sentence.

b. What does it need to make it work?

[6]This may include the controversial case of domestic violence, where concerns have been raised about, for example, power imbalance between the parties, but methods have been developed for handling it effectively (Pelikan 2010).

[7] In England and Wales most first-time juvenile offenders are referred to a youth offender panel, where victim involvement is possible but not very common (Fonseca Rosenblatt, 2015).

Much of this section applies both to individual and surrogate RJ. To be put into practice, RJ requires firstly legislation and secondly infrastructure, in addition to ongoing support and evaluation. There are different levels of legislation. Some laws neither prevent nor encourage restorative initiatives, in which case these will be dependent on an individual or group promoting them under existing law (Wigzell and Hough, 2015: 56-8). This also applies to RJ during or after a prison sentence. Secondly, legislation may mention it as an option, but without providing the machinery for it to be made available everywhere, as in the just-mentioned legislation in England and Wales. This too leaves it dependent on local initiative and on the attitudes of courts. Thirdly, as in New Zealand, the law can make a restorative process (family group conference (FGC)[8]) a standard part of the procedure for young offenders and their victims (Children, Young Persons and their Families Act 1989), and establish an agency to carry it out (Jacobson and Gibbs, 2009: 1-2). More recently, changes in New Zealand's Sentencing Amendment Act [9] (in December 2014) mean that a court must adjourn certain cases involving victims to find out whether restorative justice is appropriate (Fulton 2015). In one area (Northland) this has doubled the number of restorative justice referrals from 32, with 6 conferences, in the first three months of 2014, to 76, with 22 conferences, in the same period in 2015. In Northern Ireland the Justice (Northern Ireland) Act 2002 provides that when a case is court-referred, the court must refer all young persons to a youth conference (except for a small number of very serious offences); the majority of young offenders (75 - 80 per cent) are dealt with informally, 10 - 15 per cent are given restorative cautions and only about 10 per cent are referred for prosecution (O'Mahony, 2008: 305, 376).

The countries which have succeeded in introducing restorative practice nationwide, at least for juveniles, are the ones which have established a national infrastructure using trained volunteer facilitators (Norway, Finland) or paid specialist staff (Austria, New Zealand, Northern Ireland). To make the programme universally available requires it to be either government-run, or operated by a securely (government) funded NGO, or what is called in the UK a 'Quango', a quasi-autonomous non-governmental organisation. I think that would describe Neustart in Austria: it has a degree of independence, although this is limited by its dependence on government funding. The programme's staff should be fully committed to RJ; if they are, for example, probation officers or prosecutors, they will only be able to manage restorative cases in the time they can spare from their main job (Wigzell and Hough, 2015: 46-8). There are advantages in using volunteers, because they are often available in the evenings and at weekends, and because they are members of the community (although they may not be typical representatives of it (Fonseca Rosenblatt, 2015) and they need good training and supervision. Norway has, from the outset, used lay mediators, managed by full-time professionals

[8] The FGC process brings in family members and others affected by the young person's actions. It also includes a period in which professionals, after providing information, leave the room, so that the family can work out its own plan.

- [9] The following section is inserted before section 25:

  "24A Adjournment for restorative justice process in certain cases

  "(1) This section applies if—

  - "(a) an offender appears before a District Court at any time before sentencing; and
  - "(b) the offender has pleaded guilty to the offence; and
  - "(c) there are 1 or more victims of the offence; and
  - "(d) no restorative justice process has previously occurred in relation to the offending; and
  - "(e) the Registrar has informed the court that an appropriate restorative justice process can be accessed.

  "(2) The court must adjourn the proceedings to—

  "(a) enable inquiries to be made by a suitable person to determine whether a restorative justice process is appropriate in the circumstances of the case, taking into account the wishes of the victims; and

  "(b) enable a restorative justice process to occur if the inquiries made under paragraph (a) reveal that a restorative justice process is appropriate in the circumstances of the case."

(Andersen, 2015), and most mediators in Finland are also trained volunteers (Kinnunen et al., 2012: 127). In England and Wales the situation is unclear: the probation service has been largely replaced by a 'market' in which a diverse range of rehabilitation providers from the for-profit, voluntary and social sectors operate through 21 Community Rehabilitation Companies (CRCs). Contracts were awarded in December 2014, and the Offenders Rehabilitation Act came into force on 1 February 2015, but it is not yet certain how many of the CRCs will provide RJ. Other RJ services are (or are not) commissioned by 41 elected Police and Crime Commissioners. All this makes funding very uncertain (Collins, 2015).

The next requirement is support for reparation. RJ and STP do not finish when the restorative sessions have taken place. The **victim** may need continuing emotional and practical support. As for offenders, they usually undertake to do certain things by way of reparation, and it is up to 'us', the rest of society, to make that possible for them by providing training, therapy, accommodation, work and other needs, including opportunities for constructive community service if that is the agreed form of reparation. The support needed for RJ to 'work' includes a public acceptance of the idea, willingness to use the RJ option when there are alternatives, and less punitive attitudes generally.

Last but not least, like any innovation, RJ needs evaluation (possibly action research, sometimes called *Begleitforschung* or accompanying research, in which the researchers work alongside the practitioners and advise them if required). There should also be feedback, of two kinds: to mediators, including mutual assessment when they work in pairs, and to social policy makers, to draw their attention to social factors associated with crime.

c. What to do when it can't be used?

There are cases where there is no individual victim, or the victim or offender is unsuitable or unwilling to take part in individual RJ, perhaps because a face-to-face meeting risks being traumatic for the victim and hence would not be restorative. In these cases, and of course when the offender is not caught, the Sycamore Tree Project is a possibility. This will be considered in the next section. Alternatively, if neither RJ nor STP were possible, the case would go to court. If a more restorative philosophy of sentencing can be developed, a convicted offender would be required to make amends in a suitable way, including taking part in any programmes that made him or her less likely to re-offend, and possibly in research into factors linked to his offending. Imprisonment would be used where the offender persistently refused to co-operate, or there was a serious risk of serious re-offending.

5. Sycamore Tree Project

Now we ask similar questions about the STP. It brings together a group of offenders with people who have been victims of other offenders (often because 'their' offenders have not been caught). In one version, there are equal numbers of victims and offenders; others are more offender-oriented, and bring in one or more victims only to some of the sessions (Johnstone and Klaassen, 2015: 7), Another difference from individual RJ is that instead of a single session, the normal STP model provides a course of 6 to 8 sessions. Some victims take part in more than one set of sessions, which suggests that they are acting at least as much from altruistic concern for offenders as for their own recovery from the harm they have suffered.

a. When it can be used

As just mentioned, individual RJ encounters an obstacle if the victim or the offender is unwilling (and it has to be a voluntary process), or unsuitable, or unavailable. This is where the Sycamore Tree Process can come in.

The STP, on which BB is based, has its origins in Prison Fellowship International. It is stated that 'Building Bridges is designed to be run in a range of settings, both inside and outside of prisons', and that '[w]e also expect that the healing through well-facilitated restorative dialogues between victims and offenders can be achieved in other settings, such as peace circles in local communities' (Johnstone and Klaassen, 2015: 7, 11), but its centre of gravity so far appears to have been in prisons. It does not appear to have the same degree of flexibility as individual RJ, as regards the stage in the criminal justice process where it can be used. Probation orders and suspended sentences with conditions are available under existing legislation in some countries, and we may hope that they will be available everywhere, preferably with RJ or STP specifically mentioned as one of the conditions which courts can consider imposing.

There have been isolated experiments on these lines before. In the youth institution in Hameln, Germany, a group of women (not victims) met with offenders convicted of rape, to change their attitudes and feelings towards women (Tügel and Heilemann, 1987). In another young offenders' institution, in Rochester, England, a scheme called Victims and Offenders In Conciliation invited the local Victim Support Scheme to refer victims of burglary to groups of offenders (not 'theirs'). The authors recommend that this is best done in groups, with offenders who have already been sentenced (Launay and Murray, 1989).

b. What does it need to make it work?

In addition to the points raised in Section 4*b* above, if Building Bridges is to be universally available, it will also have to consider how it fits into the existing system. Will it be an independent organisation, perhaps an offshoot of Prison Fellowship International, knocking on the door of the courthouse and asking for cases to be referred; or will it be state-funded, with a room <u>in</u> the courthouse, and risk losing some of its independence? For example, the *Guide to establishing and running the Building Bridges Programme* seems to accept that some prisons may require behaviour reports about participants (Johnstone and Klaassen, eds. 2015: 14), but this appears to conflict with the principle of confidentiality: 'Anything said during a Building Bridges programme should be kept confidential', (*ibid.* p. 16), which avoids putting the facilitator in the position of judging the offender's behaviour.[10] There is a tension between a universal state-run service with assured funding and voluntary organisations which are not available everywhere and are insecurely funded but may be more flexible and innovative. There is probably a need for a national organisation, independent but state-funded, or perhaps a quango, to support and monitor local services and promote new ones where they are needed.

At first projects will understandably be cautious about the types and seriousness of the cases which they undertake. In principle individual or surrogate RJ can be used in any type of case, subject to risk assessment. The dividing lines are: does the case have to enter the criminal justice system at all, or can it be dealt with as a civil conflict; if it enters the criminal system, can it be part of a community-based sentence; or is custody unavoidable, in which case either version of RJ could be offered during or after the sentence?

Any form of RJ, including the BB programme, needs evaluation, and the inclusion of research as an integral part is welcome. The feedback to practitioners and to social policy makers could contribute

[10]If a court (pre-sentence) or a prison insisted on this, it would be necessary to make participants aware of it before they agreed to take part.

to socially just communities in Europe (Johnstone and Klaassen, eds., 2015: 12).

One aspect of STP has raised mild concern. The *Guide* rightly states that 'facilitators need not have any particular qualifications or professional status, nor a background of work in criminal justice' (*ibid*., p. 15), and this fits with a policy of diversity and equal opportunities. To paraphrase, they should be people just like us – or indeed different from us, if the movement is not going to be taken over by middle-class, educated, white people! The programme is open to those of all faiths and none; it is based on biblical principles, but most of these are in tune with restorative ones.[11] The Christian inspiration is appreciated. But an early edition of the *Guide* also stipulates that the facilitator should be a Christian (*ibid*., p. 6), and there are some reservations about this. In a world full of such diversity of faiths, other sources uphold central RJ and STP values such as respect, confidentiality and being non-judgemental. Examples from several faiths are given by Hadley (2001). There should be no expectation that participants embrace the religion (if any) of the facilitator. At least one similar course was developed by a Muslim imam working in The Mount prison in England, based on the story of Joseph, victimised by his brothers (Genesis, chapters 37-47 - which happens to be a story shared by all three Abrahamic faiths) (Liebmann, 2010). The Muslim scholar Nawal Ammar writes that '[a]ccording to most interpretations, Islam allows for the encounter between victim and offender, it imposes reparation of one kind or another, and to some degree permits participation of all parties' (Ammar, 2001: 178), although she concedes that more work is needed to provide a clearer picture of Islam and restorative justice, and specifically the place of women in such a view of justice. All can follow the cardinal principles of RJ, including STP. For example, the Buddha taught the Noble Eightfold Path, and Lao Tzu conceived the *Tao*, the Way: there are many paths up the mountain.

c. What to do when STP can't be used?

For offenders who were unwilling to take part, or unsuitable for any other reason, the sentence would be imposed by the court, and would ideally be a restorative one as described above.

6. Justice in a restorative society

Individual restorative justice and the Sycamore Tree method could form complementary parts of a restorative system of justice, and their potential for a more harmonious society could be even greater. Those who believe that courts and prisons are essential for social control need not be worried. This proposal is minimalist, not abolitionist, but it envisages a substantial transfer of resources to community-based programmes, and the proposal for peace circles in local communities is welcome (Johnstone and Klaassen, eds., 2015: 11). It is voluntary and non-custodial as far as possible, but compulsion and custody remain as a last resort. Even then individual RJ or STP is an option which can be added voluntarily to the compulsory measure.

Just as the number of offences for which the death penalty could be imposed was progressively reduced, and then public executions were abolished, then corporal punishment, can the criminal justice system be gradually modified? Many reformers believe that the time has come for imprisonment to be progressively replaced by community-based measures and the prison population reduced, as has been achieved in Finland (Lappi-Seppälä, 2013), and a group of British scholars and practitioners has made a case for this in a publication entitled *A presumption against imprisonment* (British Academy, 2014).

To sum up, harmful behaviour could then be dealt with in a number of ways. If it was not criminal, or the person harmed did not wish to <u>treat</u> it as criminal, they could go to a mediation centre instead of

[11]But some are not: see some examples from Leviticus and Deuteronomy quoted by Zehr, 1995: 127; also Esther, 9: 1-16; Hoyles, 1986: 3-14

to the police. If they did report it (provided the accused did not deny the act, and the victim was willing), the case could be referred to a mediation centre to assess the possibility of a restorative meeting. Assuming that the law permitted it, this referral could be made by the police, the prosecutor or the court: proceedings would be suspended, conditional upon an agreed outcome of the process.[12] When a case proceeded all the way to court, conviction and sentence, the non-custodial sentence could still include a restorative measure.[13] In all of these situations, especially if the victim is not willing to take part, or there is no individual victim, the Sycamore Tree Project would be an option, but this too would depend on its local availability. Finally, restorative justice can be used during or after a prison sentence, including STP, as the Building Bridges project has shown.

The campaign to make restorative measures acceptable is well under way, especially in countries where there is a national organisation to champion them. In England and Wales, for example, one survey found that 88 per cent of people agreed that victims of theft and vandalism should be given the opportunity to inform offenders of the harm and distress they have caused; and 71 per cent believed that victims should have a say in how the offender can best make amends for the harm they have caused (*Bromley Briefings* 2014: 79). The problem in many countries is to ensure that local services, adequately managed and supervised, exist to deliver the programmes.

There is cause for optimism in the fact that restorative practices are spreading beyond the justice system, for example in schools, workplaces, and even to respond to historical injustice and gross violations of human rights, such as the Truth and Reconciliation Commissions in South Africa and elsewhere. This has led to the idea of a 'restorative city'. What would a restorative city be like? Looking to the future, a city or municipality would begin with children. Schools would be encouraged to use restorative practices, which have been found to reduce truancy and exclusion for bad behaviour. Children would learn restorative values such as respect and non-violent communication (Rosenberg, 1999), and many of them would become mediators or would have experience of the mediation process. Children's services would aim to be child-friendly, especially towards children who were disadvantaged or harmed. Family group conferences, in which the child would have a voice, would be used to make decisions affecting children, and the extended family would be regarded as a resource. As few children as possible would need to be looked after by the state. In The Netherlands, the Law on Child Welfare gives every citizen, as of January 1, 2015, the right to make their own plan first when social services has been called upon to intervene in the care of a child or adolescent. The NGO Eigen Kracht (Our Own Power), which campaigned for the new law, has a database of 800 trained coordinators throughout the country: paid citizen volunteers who may facilitate several FGCs each year. They are independent and are seen as a bridge between the world of citizens – family and friends – and the world of professionals, who have the authority to intervene. Eigen Kracht also deals with young offenders and adults (Nederlands Jeugd Instituut, 2011; Wachtel, J., 2015).

Restorative values would also be spread through local communities. Local services could be made responsible for establishing (and publicising) mediation, with a national NGO to maintain standards. If a conflict arose between children, family members, neighbours, or work colleagues, their first call could be to the mediation service; legal action would be the last resort. Complaints by citizens against, for example, a doctor, social worker or police officer could initially be handled similarly. Restorative (participative) management of an organisation can reduce the number of disputes, and when they occur, mediation can be offered. Some of us are beginning to think of RJ as a way of life or a guiding

[12] As noted above, in England and Wales the Crime and Courts Act 2013 allows courts to defer sentence to provide an opportunity for a restorative meeting, but only if arrangements are available.

[13] Also in England and Wales, one option under the Offender Rehabilitation Act 2014 is a rehabilitative activity requirement which may include a restorative process. At the time of writing, however, provision of suitable arrangements throughout the country is uneven.

principle to be used whenever we engage in social interactions, and we may hope that where children can learn from their early years to resolve conflicts with respect for the other person, through dialogue, facilitated by mediators if necessary, they will grow up to create a more restorative society.

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