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Victim-Offender Encounters for Restorative Justice Dialogue: A Review



Author: Gerry Johnstone and Iain Brennan

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1. Introduction

An important development in the organised ways in which societies respond to criminal offences is the emergence and global proliferation, since the 1970s, of facilitated victim-offender encounters for restorative justice dialogue. These encounters often take the form of victim-offender mediation: a facilitated meeting between a victim and offender in which the basic goals are (i) to foster constructive dialogue about how the offence has harmed the victim and (ii) to come to an agreement about what the offender can and should do to repair that harm (McCold, 2008: 24). The ideas and principles at the heart of victim-offender mediation are also found in, and to some extent have influenced, a range of other practices in which victims and offenders encounter each other for restorative justice dialogue (ibid; Umbreit and Armour, 2010). These include restorative conferencing and sentencing circles. In conferencing, victims and offenders are joined by other members of their 'micro-communities' who also have an interest in the outcome and a role to play in the reparation process. In sentencing circles, a large number of community members sit in a circle and, one-by-one, have the opportunity to put forward their views on the harm that has been caused and what is necessary to repair that harm, with their views being conveyed to a sentencing authority. The ideas and principles at the heart of victim-offender mediation also overlap with those of other interventions, such as the Sycamore Tree Project, in which 'unrelated' victims and offenders meet for restorative dialogue (i.e. the victims are not the direct victims of the offenders they meet). They are also at the heart of Building Bridges, a new intervention based upon the fundamental ideas of the Sycamore Tree Project, suitable for use throughout Europe. This paper emerges from the Building Bridges project and is intended to place this project within the broader field of victim-offender encounters.

This paper has two goals. The first is to advance understanding of victim-offender encounters by placing their emergence in the broader context of the development in recent decades of a relatively novel public policy concern and a new solution to that concern. The concern is with the impact of crime upon the well-being of victims and the solution is restorative dialogue in criminal justice settings. The second goal is to explain, in broad terms, the core aspirations, objectives and methods of victim-offender encounters, focusing specifically on the sorts of encounters relevant to the Building Bridges project: encounters between 'unrelated' victims and offenders for restorative dialogue.

2. Crime victims, criminal justice and encounters

2.1. The effects of crime on victims

The undertaking of research into the impact of crime on the well-being of its victims is a relatively recent phenomenon. In a major review of this research, Shapland and Hall (2007) point to a range of ways in which victims suffer psychologically, socially, physically and financially as a result of what happened to them. The direct effects of victimisation include: shock (a relatively short-term effect); loss of trust in society (which can persist for years); feelings of guilt for not preventing the offence; physical injury; direct and indirect financial loss; psychological effects including fear, anger and



depression and, for some, longer-term depressive effects including sleeplessness, anxiety and constant reliving of the event; disruptive social effects such as changes to lifestyle and appearance and avoidance of certain places; and a perceived risk of future victimisation (*ibid.*: 178-9). Individual crime victims tend to experience some or all of these effects, to different degrees of severity and with different durations. In many cases, victims experience a long-term reduction in well-being. The precise effects of crime upon victims vary, of course, from case to case. Such effects are also felt, to some degree, by 'indirect victims' such as family members, friends and colleagues of the direct victim (*ibid.*: 179).

This 'empirical' account of the impact of crime on its victims can be deepened by looking at *why* being the victim of crime is such a distressing event. Here, the results of empirical studies can be combined with more philosophical insights. Jonathan Wolff suggests that the fact that crime involves one human being wrongfully violating the rights of another makes a significant difference to how it is experienced by the victim (2011: 114). His point is that, looked at externally, whilst crime is certainly injurious, the harm it does is often not remarkable: e.g. the victim of a burglary will often experience greater disruption and financial loss from other events (such as flooding from a burst pipe) and even the victim of a quite serious crime - such as a street robbery involving actual violence - may suffer greater injuries in a sporting accident. But what makes crime so upsetting is that it involves an assault on 'the self' which tends to produce, in its victims, 'a feeling of violation, and even humiliation and shame' (*ibid.*: 115). The distressing aspect of crime is bound up with the fact that is often experienced as a degrading event, one which lowers one's status (*ibid.*: 116). Similarly, in her classic paper 'The Wrongs of Victim's Rights', Lynne Henderson suggests that victims often experience crime as an attack, not just on their properties or bodies, but on their personhood (1985: 956-7).¹ By exercising control over the lives of their victims, offenders – she argues - undermine their victim's sense of control and autonomy. This creates feelings of helplessness, loss of sense of control over one's destiny, and lack of security (*ibid.*: 958). Somebody once at home in the world, now experiences the world as a frightening or indifferent place' (*ibid.*: 959).

Howard Zehr, one of the founders of restorative justice as a field of practice and study, draws upon such accounts to argue that being a victim of crime is a deeply traumatic occurrence because it damages the victim's sense of autonomy, order and relatedness (Zehr 2005, 19-32). Zehr analyses the victim experience in terms of two phases: an initial impact phase and a recoil phase (he also identifies a third phase, a recovery phase, which some victims, who are fortunate enough to have their needs met, go through). Each phase involves a change in the victim's emotions, self-image, world-image and relations with others. In the initial impact phase victims tend to be 'overwhelmed by feelings of confusion, helplessness, terror, vulnerability' (*ibid.*). In the recoil phase, these feelings decline in intensity and are replaced by less intense, but much longer-lasting, feelings of anger, guilt, anxiety, wariness, shame and feelings of self-doubt (*ibid.*: 20-2). Zehr maintains that whilst the reactions he describes are most marked in victims of violent crime, they also arise in victims of what we consider to be less serious offences (*ibid.*: 24). All crimes, he argues, are experienced as attacks on the *person*.

2.2. The victim and criminal justice

This recognition of the impact of crime upon the well-being of its victims has developed hand-in-hand with a dramatic growth in recent decades in services for victims of crime (Mawby, 2007;



Williams and Goodman, 2007; Dunn, 2007; Zweig and Yahner, 2013). Today, a wide range of public sector and voluntary organisations exist to offer victims support, advice, counselling, information and other interventions designed to help them cope with and recover from their distressing experience. Most of those who seek to provide support for victims necessarily have developed links with the agencies we associate with the criminal justice system. Moreover, a concern to alleviate the harmful impact of crime upon its victims is slowly but surely permeating the work of criminal justice agencies themselves (see Mawby, 2007). It is this latter phenomenon that we will explore in more detail here.

At the heart of the response of modern societies to the commission of criminal offences are 'criminal justice systems'. Criminal justice systems are not, in fact, formal institutions. Rather, what we refer to as 'a criminal justice system' is typically the coordinated activities of many different, mainly public, agencies (including but not confined to police services, prosecution services, courts, prison services, and probation services) which work together to control and respond to criminal activity. In carrying out this function, criminal justice systems operate within procedural limits which are intended to ensure that suspects and offenders are protected from wrongful conviction, wrongful punishment and other forms of wrongful treatment.ⁱⁱ

Given what has been said in the previous section about the harmful impact of crime upon the lives of its victims, some have asked whether criminal justice systems do anything to alleviate these harmful effects (Orth, 2002). A common conclusion is that they actually do very little to promote the recovery of victims. Indeed, many argue that criminal justice systems often make things worse for victims, adding further harm to the harm they have already suffered (see, for instance, *ibid*; Alvazzi del Frate, 2013: 416; Booth and Carrington, 2007: 406; Dunn, 2007: 267; O'Sullivan, 2013: 12; Rock, 2007: 51; Sanders and Jones, 2007: 282). Hence, recent decades have witnessed concerted efforts to reform criminal justice systems, so that they become institutions which do more to promote victim recovery. Indeed, the government in the UK has espoused the goal of placing the victim at the heart of criminal justice (Rock, 2004). But, one of the issues confronting those who seek to make criminal justice more conducive to victim recovery is that, until recent decades, the idea that part of the function of criminal justice was to promote the recovery of crime victims was almost unthinkable.ⁱⁱⁱ To explain this, we need to say a little about the concept of crime and the nature of criminal justice as a social institution.

As a starting point, we can consider the fact that there are many activities which people engage in that are injurious to others. However, we regard most of these 'injuries' as private matters. If we think they are sufficiently serious that a legal remedy should be provided for the injured party, the remedy provided is usually a 'private law' remedy.^{iv} In order to avail themselves of such a remedy, the injured party must themselves initiate – and be prepared to bear the costs of – a legal action. If they obtain a judgement from a court that what happened to them was in fact legally wrong, the remedy they will typically receive is monetary compensation. At any phase in this process, the injured party can decide to take the action no further. They might decide this, for instance, if they conclude they do not want to risk the financial costs and other burdens of pursuing a legal action, or if they are offered a settlement by the perpetrator of the injury. A central function of the institution of private law is to ensure that those who are directly injured by the wrongful acts of others receive something beneficial to them (usually money to compensate them for the harm they have suffered).

The function of criminal justice is quite different. Of all the injurious acts which exist, some are defined and handled as crimes. By defining an injurious activity as crime, society says that it regards



such activity as an offence against the entire public. And to redress that wrong, on behalf of the public, a public body - the criminal justice system - will take legal action against the alleged perpetrator. Further, if that person is found guilty, the criminal justice system will punish them on behalf of the public. Moreover, the criminal justice system will initiate and bear the costs of this action. The agencies of criminal justice, correspondingly, reserve the right to decide whether to discontinue an action, change the charges being brought against an alleged perpetrator, etc. The crucial point is that the action undertaken by criminal justice is undertaken on behalf of the entire public. Any benefits the direct victims of those injuries which we deem to be 'crimes' derive from this activity are purely subsidiary. It is not a central part of the official function of criminal law to benefit 'direct victims' of crime.

It is, of course, possible to adhere rigorously to such a conception of the function of criminal justice and still hold the view that victims should be treated well by the criminal justice system. Victims come into contact with the criminal justice system in many ways, e.g. when they report a crime to the police or when they appear as witnesses in a criminal case. They are also particularly affected by certain decisions, such as a decision to release early somebody who committed an offence against them. In such circumstances, we would expect a 'decent' criminal justice system to treat victims respectfully by, for example, dealing with them sensitively when they report a crime, providing separate waiting rooms for them in court buildings, informing them of when an offender is going to be released so that they do not unexpectedly meet them in the street, and so on. Over the last few decades, campaigners for 'victim reforms' have argued that criminal justice systems often fail to meet such standards, resulting in victims being harmed rather than helped by the criminal justice system, and that reforms are required to make criminal justice systems more 'victim friendly'. Resulting reforms have helped improve this situation significantly.

Such reforms are non-controversial. However, since the 1970s some victims' rights groups have gone further and argued for participatory rights for victims in the criminal justice process. Describing victims as the 'forgotten party' in the criminal justice system (Wemmers, 2009: 395), they have argued that victims should not only receive 'better service' from criminal justice, but should also have the right to take part more in its decision-making processes. To give a key example, one reform which has been campaigned for, with some success, is one which gives victims the right to present an impact statement at the sentencing stage (see Erez and Roberts, 2013: 257ff).

Such proposed (and actual) reforms are underpinned by a range of arguments, which we can see if we focus on victim impact statements. For some, the point of victim impact statements is to correct an imbalance that occurs at the sentencing stage. At this stage, it is argued, the sentencing authority hears much about the circumstances - including mitigating circumstances - of the offender, but nothing about how the crime harmed the life of the victim. This often leads, it is claimed, to unjustly lenient sentences being imposed upon offenders. Hence, it is argued, if *victims* are to receive justice, their voice also needs to be heard at this stage. However, others argue more in terms of the therapeutic benefits of such participation. The argument here is that by providing victims with an opportunity to describe how they were harmed by crime, and to have this harm acknowledged and recognised in a public forum, criminal justice systems can contribute to the recovery of victims from the trauma of crime (John Howard Society of Alberta, 1997).

The idea of giving victims participatory rights in criminal justice is, however, controversial (see Henderson, 1985). Granting victims such rights seems at odds with the idea that criminal justice acts



in the public interest, rather than in the interests of specific individuals directly affected by specific crimes (see Doak, 2005). Moreover, as Andrew Ashworth (2013), amongst others, has argued, advocacy of rights for victims to participate in the criminal justice process is based upon a dangerous misunderstanding of the legitimate interests of victims. Victims do have a legitimate interest in compensation or reparation from the offender (ibid: 374). But, they have no legitimate interest in the nature or amount of punishment imposed upon the offender. By arguing for victims' rights to participate in decisions about matters such as sentencing or parole, one is advocating rights of victims to have a say in matters in which they have no special legitimate interest. Further, granting victims such rights can undermine the impartiality, consistency and proportionality of society's treatment of the offender and hence is likely to result in systematic infringement of basic principles of justice (ibid).

2.3. Restorative justice and the victim

In recent decades, advocates of restorative justice have made a significant contribution to, and to some extent have helped transform, debates about healing the injuries of crime and the participation of victims in criminal justice (Johnstone, 2011: ch. 4). Advocates of restorative justice argue that modern criminal justice systems go much too far in regarding and treating crime as essentially an offence against the public. As we have seen, they argue that crime is, at its core, a violation of a person by another person and that it should be handled as such.^v To quote from Howard Zehr:

Crime then is at its core a violation of a person by another person, a person who himself or herself may be wounded. It is a violation of the just relationship that should exist between individuals. There is also a larger social dimension of crime. Indeed, the effects of crime ripple out, touching many others. Society too has a stake in the outcome and a role to play. Still, these public dimensions should not be the starting point. Crime is not first an offense against society, much less against the state. Crime is first an offense against people, and it is here that we should start (2005: 182).

Hence, the argument runs, our *priority* in the aftermath of a crime should be not to punish the perpetrator, but to identify and repair the harm that the crime has caused, especially the harm to its direct victims (ibid; Walgrave, 2008). So, we need a paradigm shift in criminal justice, which should become less about punishing those who commit offences against the 'public', more about healing the injuries caused by acts which violate persons. Whilst advocates of restorative justice have cautiously welcomed the idea of giving victims more participatory rights within criminal justice, they have argued that what victims need to participate in is not a process which is designed to punish offenders but one designed to heal and repair the injuries of crime (Wright, 1996). To this end, the restorative justice movement has sought to develop processes, many of them adapted from the traditional justice practices of indigenous peoples in many societies (such as the healing circles use by First Nations people in Canada or the family conferences use by the New Zealand Maori), which facilitate victim participation in dialogue and decision-making about what should happen in order to restore justice in the aftermath of a crime. In the following section we will look at this development.



3. Restorative justice dialogue

During the 1970s and 1980s, in North America and Europe, people working in criminal justice agencies began experimenting with what would later be called ‘restorative justice dialogue’ between victims and offenders (Johnstone, 2011; Johnstone, 2012; Peachey, 2013). In this period, such experiments were small scale and operated on the margins of the criminal justice system. Since the mid-1990s, however, there has been a huge and global proliferation of restorative justice practices within and around criminal justice, especially juvenile justice (Johnstone, 2011: ch. 9). Today, simply mapping the use of restorative justice dialogue within criminal justice systems around the world would be a massive and complex undertaking. Moreover, ‘restorative practices’ have been taken up in other settings where misconduct has to be dealt with - such as schools, care homes and workplaces - as well as in the handling of mass violence and gross human rights violations in places that have experienced large-scale violent conflict (Johnstone, 2011: ch. 9; Umbreit and Armour, 2010: ix).

The nature of restorative justice practices is succinctly explained by Mark Umbreit and Marilyn Peterson Armour, scholars/practitioners who have played a leading role in developing restorative justice as a social movement. They suggest that what the various practices designed to promote restorative justice dialogue have in common is:

... the inclusion of victims and offenders in direct dialogue, nearly always face-to-face, about a specific offense or infraction; the presence of at least one third person who serves as mediator, facilitator, convenor, or circle keeper; and usually advance preparation of the parties so they will know what to expect. The focus of the encounter nearly always involves naming what happened, identifying its impact, and coming to some common understanding, often including reaching agreement as to how any resultant harm will be repaired. Use of these processes can take place at any point in the criminal justice process ... (2010: 19).

Amongst the most common forms of this practice are victim-offender mediation, restorative conferencing, and sentencing circles.

Victim-offender mediation: a victim and offender meet face-to-face to talk about how an offence affected the victim and to try to agree on actions the offender should take to repair the harm caused by the offence. The facilitator of this encounter adopts a role akin to that of a mediator. They use mediation skills to help the parties have constructive dialogue and to reach agreement. There is an emphasis on empowering parties to solve their own problems, and to gain a sense of power from doing so, and upon humanising the parties to each other (Johnstone, 2011: ch. 7).

Restorative conferencing: This is similar to victim-offender mediation, but differs in that a wider group of people are involved in the encounter. These can include ‘support persons’ for the victim and offender, participants from the community affected by the offence, and representatives of justice agencies and social services.

Sentencing circles: A circle is formed including those who would take part in conferencing, along with other interested community members. Each member of the circle has the opportunity to speak, and to be listened to respectfully, about the impact of the offence and what they think should be done to repair the harm it has caused. The community’s perspective informs the sentencing authority in its decision on what should be done in response to the offence that has been committed and to prevent similar offences in the future. Circle sentencing often overlap with and may be used



in conjunction with a range of other circle processes, such as ‘healing circles’ and ‘peacemaking circles’.

These victim-offender encounters for restorative dialogue have a number of goals. For the governments and agencies which encourage and support them, often most important is their capacity to reduce reoffending (see Shapland et al, 2011: 10). Such practices are valued, that is to say, chiefly because of their potential to change the attitudes of offenders towards offending behaviour. They are of interest mainly because of their capacity to raise the awareness of offenders of the impact of crime upon people and to strengthen and direct the capacity for empathy which most offenders possess, as well as to put in place support mechanisms which enable offenders who have resolved to desist from further offences to keep to that resolve. Such processes are also, however, often promoted and valued because it is felt that they have the capacity to meet important needs of victims of crime – needs which must be met if they are to recover fully from their traumatic experience (ibid.; Johnstone, 2011: ch. 4; Zehr, 2005: ch. 2; Strang, 2002). This does raise questions, of course, about the priority and emphasis of any particular scheme or intervention, questions which become more pronounced when these differing objectives – reducing reoffending and meeting the needs of victims - come into tension with each other. These questions are especially important when we turn, as we will now do, to two types of schemes which are most relevant to Building Bridges: schemes that take place within prisons.^{vi}

3.1. Victim-offender encounters for restorative justice dialogue in prisons

Restorative justice dialogue is easiest to organise, and most often is organised, in community settings. However, to confine its use to community settings is to deprive many offenders and victims who could benefit from it – indeed arguably who most need it – of the opportunity to take part in it. Accordingly, recent years have witnessed many efforts to develop restorative justice in prisons and other custodial settings (Shapland, 2008; Van ness, 2007). Programmes began in the Canada, Switzerland and the USA in the 1980s and early 1990s (Liebmann and Braithwaite, 1999). There are presently schemes in Hungary (Barrabás, 2012), Belgium (Goossens, 2012) and Germany.^{vii}

The basic objective of such schemes is to achieve a degree of reconciliation between the imprisoned offender and their actual victims (Barrabás and Felligi, 2012: 19; Immarigeon, 1994). Offenders sometimes have a need to resolve what happened between them and the victim (or the victim’s family in the case of homicide). They may wish to express their repentance to the victim. And, they may have a desire to know what the victim’s attitude towards them is. A mediation process can be a way of meeting these needs. Victims, on the other hand, have a range of needs which can be met through such encounters: the need for answers to questions about what happened; the need to express and have validated their feelings about what happened; the need for empowerment; and the need for reassurance about their future safety (Strang, 2002; Zehr, 1990: 26-8).

Encounters between offenders and ‘unrelated’ victims

As indicated earlier, Building Bridges departs significantly from the standard model of victim-offender encounters for restorative justice dialogue. The encounter is not between an offender and his or her actual victim, but between a group of offenders and a group who are not victims of these offenders, but rather victims of other offences. Ideally, the offences should be similar in nature to those committed by the offenders in the group. As a convenient shorthand, we refer to these encounters



as being between offenders and ‘unrelated victims’. A crucial question for the Building Bridges project is that of whether such encounters can benefit and improve the well-being of the victims who take part.

To provide some context for this inquiry, here we will explain the nature and background to such programmes, focussing on the Sycamore Tree Programme, as this is the programme which the Building Bridges project will adapt for use in the context of European prisons. It is important to note, however, that the Sycamore Tree Programme is just one example of courses run in prisons which are designed to enable prisoners to understand better the impact of crime upon victims and to take responsibility for their actions. Other examples of such courses include the Hope Prison Ministry (South Africa), the SORI (Supporting Offenders through Restoration Inside) Programme, the Forgiveness Project, the Insight Development Group (Oregon, USA), Opening Doors (Ohio, USA), and Bridges to Life (Texas, USA) (Liebmann, no date).

The Sycamore Tree Programme is instigated and run by the Prison Fellowship.^{viii} Prison Fellowships are Christian ministries, run by a small team of paid staff who support the work of a larger number of volunteers. Their mission is ‘to engage the Christian community to pursue justice and healing in response to crime, thereby proclaiming and demonstrating the redemptive love and transforming power of Jesus Christ for all people’.^{ix} Today, Prison Fellowships exist in 125 countries, with national organisations being associated with each other through Prison Fellowship International (PFI).

PFI developed the Sycamore Tree Programme in 1996, with the name deriving from the Biblical story of Zacchaeus.^x It was piloted in the United States, England and Wales, and New Zealand in 1997, and programme manuals were published in 1998. The programme has been run in 27 countries in all continents (Liebmann, no date). In the UK, a Muslim version of the programme has been developed and run in one prison (ibid: 3). Modified versions of the course are run in some places, under different names.

A Sycamore Tree programme is run in a prison by trained Prison Fellowship volunteers and small group facilitators (ibid). A course typically consists of 6-8 sessions of 2-3 hours. The objectives of the course are to meet needs of both inmates and crime victims who participate. With regard to inmates, the goals include: encouraging them to take responsibility for their actions; enabling them to experience confession, repentance, forgiveness and reconciliation regarding their offences; and to help them make amends through participation in acts of symbolic restitution (Marshall, 2005: 6). With regard to victims, the aims include: helping them to resolve issues around the offence committed against them; helping them to become better informed about crime, offenders and restorative justice; enabling them to see offenders take responsibility for their offending; and helping them gain a sense of closure, forgiveness and peace.

The programme brings together a group of prisoners with a group of ‘unrelated victims’. The ideal is to have an equal number of offenders and victims, although constraints posed by prison authorities in some countries may lead to modifications. The number of prisoners taking part in a course ranges from about six (in New Zealand) to about nineteen in England and Wales.^{xi} The course consists of group discussions, role-plays, victim-offender dialogues, readings, and a workbook which inmates complete. A key part of the course involves victims telling their stories of how the crimes committed against them affected their lives. In the final session, prisoners may make symbolic restitution, which can range from a letter in which they say sorry through to the creation of pieces of art, craft items,



and poems through which offenders express their repentance.

Once the Prison Fellowship has been given permission to run a Sycamore Tree course in a prison, prisoners tend to be recruited for participation in the course in one of two ways: either (i) they sign up for the course after seeing posters or flyers distributed in the prison or (ii) staff in the institution – such as officers, chaplains or behavioural experts – select them and offer them the opportunity to participate.^{xii} Victims also tends to be recruited in one of two ways. Some hear about the course through articles in newsletters and so on and then approach the Prison Fellowship. However, there is also some proactive ‘recruitment of victims’ by Prison Fellowship volunteers. A fairly typical response of course organisers to the question of where they find victims is:

Well, we have several ways to find them. Often it is via our current volunteers, we ask them to look around in their own circles, we write about it in our newsletters and volunteer information bulletins. Sometimes victims find us, when they read an article in the newspaper or so. I found a victim via a victim offender mediation bureau, at a film premiere where she had participated! Once I read a book of a victim and I contacted him. So it goes both ways, we find them or they find us. But it is not easy to find them, we keep searching.^{xiii}

Victims have a crucial role to play in Sycamore Tree courses, and are carefully selected and prepared for that role. As a ‘real live person’, victims can help offenders understand how their offending behaviour actually affects real people: how offending behaviour impacts upon the victim’s daily life, work, health, sleep and so on, and how it also affects other members of the victim’s family.^{xiv} Hence, offenders come to realise that their offences have harmed people in ways they previously had not considered or imagined, and that the harm extends well beyond that captured by the official, legal definition of the crime. At the same time, offenders also come to realise that ‘not all victims are negative or vengeful’ – again putting in question comfortable stereotypes which many prisoners have.^{xv} This helps them empathise with crime victims. This, in turn, tends to lead offenders to deep regret for the harm they have caused to their victims and to a resolve both to make amends for that harm and not to inflict such harm on anyone else in the future.

Although it is less part of the ‘official’ function, participation in the Sycamore Tree course also tends to benefit victims, and many organisers do regard this as an important benefit. For most victims who take part, the offence they suffered happened some time ago, and it is likely that they see themselves as already having recovered or adjusted to a large degree.^{xvi} However, according to the course organisers, victims do tend to report that telling their story has therapeutic and empowering effects; e.g. that before participation in the course they still thought of the themselves as victims, whereas telling their story and seeing the reactions of the prisoners helps them ‘process’ what happened to them.^{xvii} Victims are also reported as benefitting from the fact they get to understand that offenders have also suffered many problems, and yet are capable of feeling remorse and empathy.

At heart, the Sycamore Tree course seems underpinned by the idea of redemption. People who have made mistakes, done harmful things or even, as in the biblical story from which it derives its name, led bad lives, can be saved or redeemed. The course is also underpinned by particular ideas about what is required if redemption is to be possible. These might be characterised thus: Wrongdoers first need to be awakened to the harm their behaviour actually causes to ‘real live persons’ and then shown that, despite the harm they have caused, these others are willing to help them and perhaps even offer forgiveness; but, this redemption must be earned; offenders themselves



need to go through the often painful, but ultimately liberating, experience of taking personal responsibility for their decisions, actions and life course; they must express remorse for what they have done and been, and commit to acting and being better in the future. Those who organise the courses are usually well aware that offenders will need much more, in terms of regular support, in order to help them keep that commitment. Here, the faith networks behind the Sycamore Tree course may be helpful for those prisoners who join them. However, the fact that the Sycamore Tree course is unaligned with other activities in the criminal justice system means there is only hope, and no guarantee, that any steps forward taken during the course will not be offset by other influences on the prisoner's future life. Finally, all of this is underpinned by the notion that in helping prisoners in this way, victims and others who take part themselves benefit.

4. Victims

While it has been demonstrated repeatedly that victims involved in restorative justice procedures experience better outcomes than those victims who do not have this opportunity, the literature that describes why this effect is observed is disappointingly sparse. When mechanisms of change for victims have been discussed in the literature, the focus has been largely on those 'direct' victims who have engaged with restorative justice as an alternative to sentencing. For these victims, a range of psychological mechanisms and emotional changes have been suggested, including reductions in anxiety, fear of crime, reconciliation of a 'just world' view and a sense of acknowledgement of their suffering. These experiences are reflected in changes in 'satisfaction' (Strang, 2001), general wellbeing (Strang, 2001) and fear of crime (Davis, 1980; Strang et al, 1999) in victims who have participated in restorative justice. Even in the case of these direct interactions the literature has focused on the outcomes and not the mechanism through which these outcomes have been reached.

It is noteworthy that these changes all reflect the 'direct' nature of the interaction between offender and victim or the experience of taking part in the criminal justice process. They cannot be expected to apply to 'indirect' victims who do not face their own assailant/offender. Despite a growing number of these 'indirect' victims now participating regularly in restorative panels, little or no attention has been paid to the motivations and experiences of these important participants. Nor has there been a sophisticated attempt to explain any changes to their wellbeing. The following section briefly synthesises the literature on victim change and hypothesises ways through which any changes might be realised in the overlooked 'indirect' victims.

5. Motivations for participation

Braithwaite (2013), citing Strang (2000) has described the range of aspirations that victims hoped to realise through their participation in direct restorative interactions. These were "a less formal process where their views count", "more information about the processing and outcome of their case", "to participate in their case", "to be treated respectfully and fairly", "material restoration" and "emotional restoration, including an apology". As 'indirect' victims are not involved in a case, the first three aspirations are not relevant. Neither is it feasible that material restoration will follow participation in these indirect interactions. However, it is possible that volunteers engage in this activity to be treated respectfully and fairly or to achieve some type of emotional restoration. Furthermore, an apology, while not from a direct offender, may have some symbolic benefit to a



victim.

Strang (2000: iv-v) noted that participation in restorative conferences had positive effects on victims' feelings of "dignity, self-respects and self-confidence and led to reduced levels of embarrassment and shame about the offence" and "allowed them to feel more settled about the offence, to feel forgiving towards their offender and to experience a sense of closure". It is necessary, in the context of 'indirect' victims - many of whom participate repeatedly in indirect victim-offender 'panels' such as the Sycamore Tree Programme – to ask if this mechanism can be repeated when the victim and offender are unknown to each other and their fates are unrelated. To date, no information is available on this topic.

5.1. Vicarious reparation

Retzinger and Scheff (1996) have emphasised the importance of 'symbolic reparation' in achieving victim satisfaction with restorative justice procedures. Apology from the offender is central to these interactions and it appears to have considerable reparative power. In order for such a mechanism to work through an indirect channel the victim would have to regard the offenders they meet as representing all offenders, including the person who offended against them. Social psychological research suggest that such a representation is plausible when the ingroup-outgroup dynamic is activated as in victim-offender panels (Turner and Oakes, 1986).

5.2. Altruism

Goodes (1996) noted that the most common reason victims gave for attending juvenile conferences in South Australia was to help the offender. Such altruism may underlie the motivations of 'indirect' victims: the structure of the Sycamore Tree Programme, coupled with its Christian underpinnings, facilitates a charitable endeavour whereby a single victim can potentially help many offenders. The victims who participate in these programmes may not be seeking anything for themselves but hoping to prevent future suffering on the part of both offenders and potential victims.

There are a range of other potential explanations for why victims volunteer to participate in these types of programmes. Some of these reasons may not be specific to restorative justice programmes. For example, they may simply see these programmes as simply a worthwhile charitable enterprise, they may be curious about this unusual approach to dealing with offenders or they may have been pressured into participating by a friend. Much work needs to be done to explore the reasons and explanations for victim participation alongside evaluations of how this participation has affected them. Furthermore, without understanding why these victims participate in such programmes – often repeatedly – we are unlikely to identify or fully understand the psychological changes that such programmes generate.

6. Concluding Remarks: Building Bridges

Building Bridges will seek to develop a new intervention for use in European prisons. The new intervention – called Building Bridges - will draw upon the ethos, principles, and methodologies of the Sycamore Tree Programme and may even employ re-worked versions of some of its course



materials. However, it will be innovative in a number of respects. Two particular innovations are most important. First, Building Bridges will consist of a documented, piloted and tested intervention, which is designed for use in prisons and other custodial institutions throughout Europe, by agencies including but also extending well beyond Prison Fellowship. Second, the intervention will be adapted so that its victim support element is (i) much more explicit and (ii) clearly built into the design of the intervention. With regard to this second innovation, a number of critical questions will be addressed during our evaluative research: To what extent is promoting the well-being of victims the actual drive behind the organisation and running of Building Bridges? What can we discover about the reasons for victim participation in such interventions? What can we discover about the obstacles to victim participation in such interventions? What, if anything, can we find out about the effects of participation in Building Bridges upon victims' perception of their well-being? Ultimately, what is the potential of interventions such as Building Bridges for promoting the well-being of victims of *serious* crime?



References

- Alvazzi del Frate, A. (2013) 'Victimization: An International Perspective' pp. 401-428 in Davis, R., Lurigio, A. and Herman, S. (eds.) *Victims of Crime (4th edition)*. London: Sage.
- Ashworth, A. (2013) 'Responsibilities, Rights and Restorative Justice', pp. 374-383 in Johnstone, G. (ed.) *A Restorative Justice Reader* (second edition). London: Routledge.
- Barnes, G., Braithwaite, J., Sherman, L. and Strang, H. (1999). *Experiments in restorative policing: A progress report on the Canberra Reintegrative Shaming Experiments (RISE)*. Canberra: Australian Federal Police and Australian National University.
- Barrabás, T. (2012) 'The Possibilities of Reconciliation and Restoration in Prisons', pp. 23-64 in Barrabas, T. and Felligi, B. (eds.) *Responsibility-taking, Relationship-building and Restoration in Prisons*. Budapest: Foresee.
- Barrabas, T. and Felligi, B. (eds.) (2012) *Responsibility-taking, Relationship-building and Restoration in Prisons*. Budapest: Foresee.
- Booth, T. and Carrington, K. (2007) 'A Comparative Analysis of the Victim Policies across the Anglo-speaking World', pp. 380-415 in Walklate, S. (ed.) *Handbook of Victims and Victimology*. Cullompton: Willan.
- Doak, J. (2005) 'Victims' Rights in Criminal Trials: Prospects for Participation', *Journal of Law and Society*, 32:2: 294-316.
- Dunn, P. (2007) 'Matching Service Delivery to Need', pp. 255-281 in Walklate, S. (ed) *Handbook of Victims and Victimology*. Cullompton: Willan.
- Erez, E. and Roberts, J. (2013) 'Victim Participation in the Criminal Justice System', pp. 251-270 in Davis, R., Lurigio, A. and Herman, S. (eds.) *Victims of Crime (4th edition)*. London: Sage.
- Goodes, T. (1995) *Victims and family conferences: Juvenile justice in South Australia*. Adelaide: Family Conferencing Team.
- Goossens, E. (2012) 'A Case from Belgium', pp. 279-88 in Barrabas, T. and Felligi, B. (eds.) *Responsibility-taking, Relationship-building and Restoration in Prisons*. Budapest: Foresee.
- Henderson, L. (1985) 'The Wrongs of Victim's Rights', *Stanford Law Review*, 37:4, 937-1021.
- Immarigeon, R. (1994) 'Reconciliation between Victims and Imprisoned Offenders: Program Models and Issues'. Akron, PA: Mennonite Central Committee.
- John Howard Society of Alberta (1997) *Victim Impact Statements*. Available at <http://www.johnhoward.ab.ca/pub/C53.htm> (last accessed 16/10/2014).
- Johnstone, G. (2011) *Restorative Justice: Ideas, Values, Debates (2nd edition)*. London: Routledge.
- Johnstone, G. (2012) 'The Standardisation of Restorative Justice', pp. 91-115 in Gavrielides, T. (ed.) *Rights and Restoration within Youth Justice*. Whitby, ON: de Sitter.



- Johnstone, G. and Ward, T. (2010) *Law and Crime*. London: Sage.
- Law, P. (ed.) (2005) *Testament: The Bible Odyssey*. London: Continuum.
- Liebmann, M. (no date) 'Restorative Justice in Prisons: An International Perspective' (retrieved from http://www.foresee.hu/uploads/media/MarianLiebmann_text.pdf – last accessed 09/07/2014).
- Liebmann, M. and Braithwaite, V. (1999) 'Restorative Justice in Custodial Settings: Report for the Restorative Justice Working Group in Northern Ireland'. (retrieved from file:///C:/Users/lasigj/Downloads/12zy_research_into_restorative_justice_in_custodial_settings.pdf - last accessed 14/09/2014)
- McCold, P. (2008) 'The Recent History of Restorative Justice: Mediation, Circles and Conferencing', pp. 23-51 in Sullivan, D. and Tifft, L. (eds.) *Handbook of Restorative Justice: International Perspectives*. London: Routledge.
- Marshall, M. (2005) 'A Consideration of the Sycamore Tree Programme and Survey Results from the Perspective of a Restorative Justice Practitioner' (retrieved from http://www.pfnz.org.nz/programs/syctree_what_works.htm - last accessed 09/07/2014, link broken, paper on file with author).
- Mawby, R. (2007) 'Public Sector Services and the Victim of Crime', pp. 209-239 in Walklate, S. (ed) *Handbook of Victims and Victimology*. Cullompton: Willan.
- Orth, U. (2002) 'Secondary Victimization of Crime Victims by Criminal Proceedings', *Social Justice Research*, 15:4, 314-325.
- O'Sullivan, C. (2013) 'Sexual Violence Victimization of Women, men, Youth and Children', pp. 3-28 in Davis, R., Lurigio, A. and Herman, S. (eds.) *Victims of Crime (4th edition)*. London: Sage.
- Pakes, F. (2010) *Comparative Criminal Justice (2nd edition)*. London: Routledge.
- Peachey, D. (2013) 'The Kitchener Experiment', pp. 75-81 in Johnstone, G. (ed.) *A Restorative Justice Reader* (second edition). London: Routledge.
- Retzinger, S. and Scheff, TJ (1996). 'Strategy for community conferences: Emotions and social bonds', pp.315–336 in Galaway, B. and Hudson, J. (eds.) *Restorative Justice: International perspectives*. Monsey, New York: Criminal Justice Press.
- Rock, P. (2004) *Constructing Victims' Rights: The Home Office, New Labour and Victims*. Oxford; Oxford University Press.
- Rock, P. (2007) 'Theoretical Perspectives on Victimization', pp. 37-61 in Walklate, S. (ed.) *Handbook of Victims and Victimology*. Cullompton: Willan.
- Sanders, A. and Jones, I. (2007) 'The Victim in Court', pp. 282-308 in Walklate, S. (ed.) *Handbook of Victims and Victimology*. Cullompton: Willan.
- Sanders, A., Young, R and Burton, M. (2010) *Criminal Justice (4th edition)*. Oxford: Oxford University



Press.

- Shapland, J. (2008) 'Restorative Justice and Prisons' (retrieved from [http://mereps.foresee.hu/uploads/media/Paper by Joanna Shapland.pdf](http://mereps.foresee.hu/uploads/media/Paper_by_Joanna_Shapland.pdf) - last accessed 09/07/2014)
- Shapland, J. and Hall, M. (2007) 'What we know about the Effects of Crime on Victims', *International Review of Victimology*, 14, 175-217.
- Shapland, J., Robinson, G. and Sorsby, A. (2011) *Restorative Justice in Practice: Evaluating What Works for Victims and Offenders*. London: Routledge.
- Strang, H. (2001) *Victim participation in a restorative justice process*. Oxford: Oxford University Press.
- Strang, H. (2002) *Repair or Revenge: Victims and Restorative Justice*. Oxford: Oxford University Press.
- Turner, J. and Oakes, P. (1986) The significance of the social identity concept for social psychology with reference to individualism, interactionism and social influence. *British Journal of Social Psychology*, 25, 237-52.
- Umbreit, M and Armour, M. P. (2010) *Restorative Justice Dialogue*. New York: Springer.
- Van Ness, D. (2007) 'Prisons and Restorative Justice', pp. 312-24 in Johnstone, G. and Van Ness, D. (eds.) *Handbook of Restorative Justice*. Cullompton: Willan.
- Walgrave, L. (2008) *Restorative Justice, Self-interest and Responsible Citizenship*. Cullompton: Willan.
- Wemmers, J. (2009) 'Where do they belong? Giving Victims a Place in the Criminal Justice Process', *Criminal Law Forum*, 20, 395-416.
- Williams, B. and Goodman, H. (2007) 'The Role of the Voluntary Sector' pp. 240-254 in Walklate, S. (ed.) *Handbook of Victims and Victimology*. Cullompton: Willan.
- Wolff, J. (2011) *Ethics and Public Policy: A Philosophical Enquiry*. London: Routledge.
- Wright, M. (1996) *Justice for Victims and Offenders: A Restorative Response to Crime*. Winchester: Waterside Press.
- Zehr, H. (2005) *Changing Lenses: A New Focus for Crime and Justice (3rd edition)*. Scottsdale, PA: Herald Press.
- Zweig, J. and Yahner, J. (2013) 'Providing Services to Victims of Crime', pp. 325-348 in Davis, R., Lurigio, A. and Herman, S. (eds.) *Victims of Crime (4th edition)*. London: Sage.



Notes

ⁱ Henderson did, however, work from a narrow and arguably distorting empirical base: her core material appeared to be drawn from studies of rape victims, stretching out into victims of other forms of inter-personal violence.

ⁱⁱ Hence Sanders *et al* define a criminal justice system as: ‘a complex social institution which regulates potential, alleged and actual criminal activity within procedural limits supposed to protect citizens from wrongful treatment and wrongful conviction’ (2010: 2). Although international treaties and (to an extent) European legislation and rulings have led to some standardisation, criminal justice systems still vary enormously from country to country (Pakes, 2010). In what follows, we will proceed from our knowledge of the literature of criminal justice in England and Wales and the USA.

ⁱⁱⁱ On what follows, see Johnstone and Ward (2010).

^{iv} Also often called a ‘civil law’ remedy, although this term can be confusing as ‘civil law’ has a number of quite different meanings.

^v In making such points, advocates of restorative justice tend either to ignore offences which do not have a personal victim or, sometimes, insinuate that all criminal offences do in fact have a personal victim.

^{vi} In what follows we have drawn upon Johnstone (2014), which is a report on restorative justice in prisons prepared for the Council of Europe’s European Committee on Crime Problems (EC-CP). We are grateful to the EC-CP for permission to use, in edited form, a number of paragraphs from that report.

^{vii} See <http://www.euforumrj.org/projects/previous-projects/mediation-and-restorative-justice-in-prison-settings/> (last accessed 03/07/2014).

^{viii} The Prison Fellowship movement was founded in 1976 by Charles Colson, following his release from prison for a Watergate-related crime. In general, see <http://www.prisonfellowship.org.uk/who-we-are/our-story-so-far/> (last accessed 25/06/2014).

^{ix} <https://pfi.org/who-we-are/> (last accessed 25/06/2014).

^x Zacchaeus was a superintendent of taxes in Jericho, and a rich man. When Jesus was visiting Jericho, Zacchaeus was eager to see what he looked like. Being a small man, he climbed a sycamore tree in order to see him. Jesus looked up and told Zacchaeus to come down because he wished to stay at his house. The crowd around expressed disapproval of this because Zacchaeus (as somebody who had got rich by taxing others) was a sinner. However, Zacchaeus proclaimed that he would give half of his possessions to charity and that if he had defrauded anyone, he would repay them four times over. Jesus replied: ‘Today salvation has come to this house, for this man too is a son of Abraham. The son of man has come to seek and to save what is lost’. The story can be accessed in Law (2005: 508).

^{xi} On the New Zealand figures see Marshall, (2005). In England and Wales see the blog ‘Penny and Prison’: <http://pennyandprison.blogspot.co.uk/> (last accessed 25/06/2014). This blog provides important insights into a course as seen through the eyes of a course tutor.



^{xii} So far, very little is known about on how offenders and victims are recruited for participation in Sycamore Tree courses. The following observations are based on interviews with a handful of course organisers conducted as part Building Bridges.

^{xiii} Interview conducted with Sycamore Tree course coordinator (interview 1, 020514) as part of 'Building Bridges'.

^{xiv} Ibid.

^{xv} Ibid.

^{xvi} Although this is something to be explored in our evaluation of Building Bridges.

^{xvii} Interview conducted with Sycamore Tree course coordinator (interview 5, 080514) as part of 'Building Bridges'.

