

RESTORATIVE JUSTICE AND THE LAW

LONDON - 4TH FEBRUARY 2010

Venue – The Royal Institute of Mechanical Engineers – 1 Birdcage Walk, Westminster (Indeed 30 seconds away from parliament and very posh – too posh for the likes of me!!)

General introduction

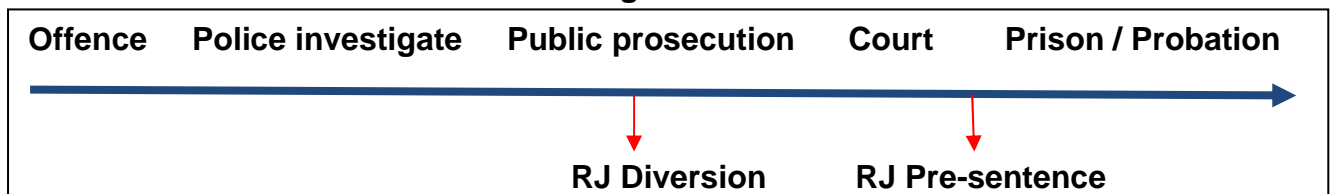
For those unfamiliar with the term Restorative Justice (RJ) the broad concept is that where harm has been done to someone in a community, firstly the hurt is acknowledged by the offender and secondly some way is found, between the victim and the offender to repair the damage. Of course it is more complicated than that and indeed in western societies has almost become a science.

It is not new a concept, even to Ireland and parts of England but it has been submerged in the adversarial judicial process developed over the last few hundred years. Justice and its attendant 'truth' have to some extent been handed over to the courts / state.

It has been and remains part of the community culture in a number of societies namely Japan, parts of Scandinavia, Australia and New Zealand.

In short, a restorative Justice process makes the link between a victim and offender to enable damage to be repaired between them and to some extent the community.

CRIMINAL JUSTICE PROCESS – existing interventions



The Conference

The broad purpose of this conference was to explore how Restorative Justice can be mainstreamed into the Criminal Justice process. There were four parts to the day of which I was involved in the first three. (I was travelling back during the workshops)

1. Restorative Justice approaches – a General explanation and a look at RJ in schools.
2. Restorative Justice and learning from abroad.
3. Restorative Justice and Sentencing adult offenders.
4. The workshops.

Part 1

RJ explained via real victims and offenders – Peter (the burglar) and Will (the victim)

This was fairly impactful because this was two people who have been touched by the RJ process telling their story. This was followed by three presentations which discussed the development and impact of RJ in the education sector. This was significant because at long last there has been some empirical research into the effect of RJ practices in schools. (Two studies by Cambridge University – Dept of Education)

Comment – Interesting in fact fascinating but so fast and skimmed it almost became meaningless. MOSTARI - Those examining the youth section might wish to consider some of the thinking around this area.

Part 2

There were three presentations here of which two were from abroad:

1. Judge David Carruthers New Zealand – who explained the development of RJ in Australia and New Zealand, once the new citizens understood the abhorrence of the indigenous population to their children being judged and sentenced ‘alone and outside’ their community. He was also hilarious, Dame Edna eat your heart out.
2. Alice Chapman – NI Youth conferencing service – described the development of Youth conferencing in Northern Ireland. Her big message was about the need to
 - a. Get champions and
 - b. Convince the judiciary and lawyers that their work will not be interfered with or reduced.
3. Alan Duncan - Conservative (prisons) – first half was generally about the benefits of RJ in terms of
 - a. It is inexpensive and
 - b. It could help to empty prisons. The second half was a party political broadcast selling the conservative approach to criminal justice.

Comment – this was a frustrating section as the principle message was about the development of restorative processes inside the criminal justice process. Finding ways to shoe-horn it into the criminal justice process as another tool, which also happens to be “simple, effective and inexpensive”. (Duncan)

The point that was missed was that Restorative processes are not about what the 'state' does to its citizens but a culture of justice inside communities, which are right in their own way.

Part 3

This was led by Sheffield University law school research into a number of pilot programmes dealing with adult offenders and overall the results were good. This was significant in that, the impact of RJ is being supported by empirical studies and not just anecdotal reports. This also is helping to build the body of evidence to support the development of RJ.

The second and third presentations were by a District Judge from Sunderland and Lord Falconer. The main theme of these presentations was about where, how and when RJ could be mainstreamed into the criminal justice process and what that might look like. As one might expect there was a serious amount of scrabbling around in the legislation which I suspect was confusing for those not familiar with legislation. (It was about what legislation already exists and what might be needed in future)

Comment – this was the real 'establishment' speaking and somehow, while I believe they have a genuine desire to make the criminal justice process better by introducing restorative practices they too have missed the point. Restorative Justice is not a prescription for an ill it is a holistic approach to life inside communities.

Part 4 Workshops:

1. What does the research really show?
2. What does RJ offer victims and offenders?
3. A victims and Restorative Justice Act for England and Wales?
4. What is happening now?

General comments:

The community pillar so necessary for a restorative culture to flourish has been forgotten or ignored.

Ken the policeman – I have been trained in Restorative Justice but have never been able to practise. (Development of Youth Conferencing) – I believe in the philosophy but believe it can only work inside communities and to a large extent this has been ignored.

Ken the educationalist – there is the possibility of serious tension here, between the traditional, authoritarian and pedagogic approach to education and the collaborative supportive approach needed to develop RJ practice inside schools.

Ken the citizen – the ‘powers that be’ will feel threatened such community power and even if they believe in RJ, when it comes to the crunch – the ‘tough on crime tough on the causes of crime’ mantra is what will reign supreme.

Ken the MOST student – Two things are of interest in relation to this:

1. Is there a restorative culture in Macedonia and what does that look like? If not would such a philosophy be of benefit in building peace?
2. Would a restorative approach be of value inside the education system in Macedonia?

Ken Annett

Any views or opinions presented are solely those of the author.