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Editorial

In search of a research nirvana: what process for whom?

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Writing an editorial is a time to dream, to think of possibilities in the far future when one's key research questions might be answered. For me, the impetus in researching restorative justice is not just to understand what it is, or how it works, but also to work with practitioners to improve practice. That means, in the context of restorative justice and its values of inclusivity and voluntariness, listening to those who participate and reflecting back what they are saying and their reactions. Perhaps one of the most important tasks for research in this field is that researchers may be able to hear and translate the voices of all of those who participate back to those who design restorative justice programmes, fund them and deliver them. My plea in this editorial is that we may work out ways to see what kinds of restorative justice processes are found helpful by different participants (adult and young participants, victims and offenders), for varying offences.

This is not a task of evaluation, of finding out 'what works', or what effects and outcomes restorative justice programmes or experiences have. Evaluation can only work with what has happened, and good evaluation is evaluation true to the aims and values of the programmes which have been delivered. So evaluation is necessarily bounded by the current shape of programmes and how they have been delivered. It is constrained by current provision, and can only speculate about other possibilities which have not been tried as yet. Listening to the voices of participants is a slightly different and more difficult task, where one needs to listen to what was not there, but might have been there and would have been helpful – to find the gaps and see possibilities for future development. However, I think it is a key task for researchers, particularly given the values of restorative justice, that that justice should not reflect the state's demands, or criminal justice's power balances, but instead what would be helpful to potential participants, within the bounds of human rights considerations.

Working out what might be helpful in restorative justice is a particularly problematic task because the aims of policy makers and funders (who provide the

cash for the research and often determine the shape of restorative justice processes) are not usually identical to those of managers, or those of facilitators and mediators, or those of participants (offenders, victims, those from the community). Looking at a brief history of the development of restorative justice in England & Wales clearly shows this. Perhaps the most heartfelt cry was that of Ruddick (1989: 96) on her experiences of running the Coventry Reparation Scheme:

expectations were varied -- the government was looking for a new method of dealing with some offenders that could possibly achieve a punitive objective while also recompensing the victim in a practical way; the probation service's interest lay in reducing sentences, possibly providing an alternative to custody, and in offender learning; the mediation movement ... was increasingly interested in mediation and reparation as a complete alternative to the formal justice system which had failed to resolve the personal nature of crime and its consequences for both parties.

Those were early days, but expectations and aims still vary: governments in 2017 are into meeting victim needs and reducing offending; funders may be into cheaper alternatives to prosecution; those who are concerned with rehabilitation and desistance will be into providing assistance with the practical problems facing those who desist; those who see the need to turn young offenders away from a path of increasing vulnerability and involvement with crime will be into enabling young people to want to access programmes of early effective intervention ... and so on. The result now, as in 1989, is that those devising and running restorative justice schemes are pulled between different aims, different indicators and different courses of action. Given all this, the existing aims are diverse and problematic enough – so why do I want to make things even more complex by bringing in the unspoken reactions of participants?

The reason is that restorative justice is supposed to be bottom up – to reflect the needs of participants – but those participating from any one case necessarily only experience the one form of restorative justice they were given. This is of course unless they are victimised again – but hopefully that will not be the case. The result is that it is not possible for participants to compare forms of restorative justice to see which was best suited to them, as one tries on dresses or goes for test drives in cars. Participants, in making their choices, have to make do with the descriptions of

alternatives that they are given by facilitators/mediators during the preparation – which is rather like comparing restaurant menus rather than the taste and smell of the food which is sitting there enticingly before you. It is why the use of videos of different possibilities seems to me to be an important innovation (see, for example, the video about statutory youth conferencing in Northern Ireland, given to all potential participants by the Youth Justice Agency), even if these are costly.

Moreover, participants can only compare alternatives if these are offered by the relevant scheme. Though, increasingly, and helpfully, schemes are now often offering different possibilities (being able to have a supporter or supporters present, even if the process is called by the scheme itself ‘mediation’), or different forms of indirect mediation input for victims (video, statement, shuttle mediation by mediators), it is still the case that schemes tend to have developed a particular culture of how they ‘do’ restorative justice. So, for example, some providers seem to favour indirect mediation, some conferencing (Zinsstag & Vanfraechem, 2012). Some countries seem to stress reparation more (particularly financial compensation), like Belgium, whereas others rarely mention it, like England & Wales (Van Camp, 2014). Whilst these different practices may reflect population cultural differences, they may also simply stem from the history of the particular scheme, or the preference of its manager, or the original training of its facilitators/mediators, or even what mediators/facilitators are most comfortable with undertaking.

Given that knowledge of restorative justice is still, in many countries, relatively limited, potential participants are unlikely to know about many different forms, or processes, or alternatives. Potential participants are also relatively disempowered at this point in the process – the offer of a particular process has been made to them by those skilled in undertaking it: who are they to quibble or ask for something else? They will also potentially be affected by the emotions and reactions following crime and contact with criminal justice, whether they be victims or offenders. The result is, in my view, that potential participants will often be choosing whether or not to participate in one form of restorative justice, rather than daring to ask to choose between many.

This might be fine if facilitators/mediators were informed by a substantial body of research about the benefits and disadvantages of different restorative justice processes for different kinds of participants – and so could supply the right one for the instant case, knowing they are working from an evidence base. Our knowledge,

though, on this is very limited, despite the explosion of research on restorative justice in different countries.

We know a number of rather confusing things. So, most participants, when asked whether this was the right time for them to engage in restorative justice (whether it be pre-court or post-court; whether it be a few weeks, a few months or a few years after the offence or after the offender was apprehended), respond that yes, that was the right time (Shapland et al., 2011). Or should one translate these answers as: ‘That was an OK time, I benefited, I find it hard to judge whether a few weeks before or after might have been better, because that isn’t when I was offered it’. To my knowledge, the only counter-indications on time are first, that it is difficult for young offenders to engage when the offence was a long time ago, and they are now older and feel themselves to be different; and secondly that victims of offences who themselves feel this was a minor offence also feel they have moved on and that there is no need for restorative justice if too much time has passed. So there are problems if restorative justice is offered ‘too late’. We simply do not know what is actually the right time, or what happens if restorative justice is offered ‘too early’ for victims, so they do not wish to take part at that point in time. The EU Victims Directive (2012) indicates that it should be available at all stages and all times – so hopefully we will in time become aware of how victims react when re-offered restorative justice further on in time and in the penal system processes.

Another puzzle is that, when given the choice, participants tend to choose the ‘less scary’ option of indirect mediation, yet when the choice is between direct meetings/conferencing, or no restorative justice, the rates for participation are very similar (Shapland et al., 2011). We also do not know whether it helps participants, or leads to greater participation rates, for direct meetings to be preceded by indirect mediation or not. Is that choice being driven by participants’ or by mediators’ preferences? Given this, it seems to me that we are woefully ignorant as to how to best design restorative justice practices and processes for more challenging circumstances (serious offences; those who know each other; neighbourhood disputes involving many participants, etc.). Should the funds ever become available really to offer restorative justice for serious offences and with adult offenders to all (the circumstances which our current research base suggests produce the most beneficial consequences for both victims and offenders), do we know how best to design those processes?

When speaking at the European Forum for Restorative Justice conference in 2010 (Shapland, 2010) I pleaded that providers should start recording in detail *how* they deliver restorative justice in terms of processes, invitations, time frames etc. This is because at that point in time, we simply did not have the detailed knowledge of current restorative justice processes to be able to say what processes were found more helpful for which participants (even by comparing across providers and amalgamating data from different kinds of participants). Unfortunately, that still seems to be the position today. A combination of the need not to identify participants (because of the confidentiality of restorative justice) and lack of detailed evaluation in many countries has led to schemes still not recording in any research-accessible fashion how they do things.

Some will probably be thinking, ‘why is she asking these impossible questions?’. Given the very low rates at which victims are being told about or offered restorative justice at all in some countries (the Crime Survey of England & Wales has shown that it was only 4.2 per cent of victims in 2015-16 who said they had ever been approached and told about restorative justice, with that figure decreasing from previous years – Victims Commissioner 2016), surely suggesting that we should be offering alternatives, and spending precious research and evaluation time and money on studying alternatives, is just a research dream and not worth it?

I think the answer lies in the real benefits victims say they derive from restorative justice processes. Whether they have experienced mediation or conferencing, and in whichever way, victims say they find it helpful and satisfactory (e.g. Shapland et al. 2011). Similarly, when different institutional settings in which mediation is offered are compared (for example, between mediation offered by probation services; victim support services; or services without any apparent association with offenders or victims, such as voluntary sector providers), victims in general seem to favour the system with which they are familiar or the one they have experienced (Bolivar, Pelikan & Lemonne 2015). Maybe, providing mediators/facilitators keep to the overall values of restorative justice, the details and name of the provision do not matter. Or maybe we simply have not been concentrating upon the details which do matter (for example, whether victims feel that restorative justice providers have concentrated sufficiently on their views and interests, not just those of the other party; or practical arrangements are made easy)?

There are few evaluations providing negative evidence on restorative justice. One set of problems is where there are real power imbalances, not properly attended to by mediators and schemes or too great to assuage (as in much intimate partner violence and serious sexual assaults/abuse, and where there are ethnic conflicts). Another is when restorative justice is done by untrained mediators who do not listen to participants' needs. A third is when offenders deny responsibility or only admit very partial responsibility. And a final group, which seems to be rare, is when communication difficulties are so great that it is not possible to mitigate them. For all these groups, we know there can be adverse effects. We have not, though, really explored how serious the effects are or concretely how to change situations or adopt different forms of practice to improve them.

Given the extent of the benefits most victims say they experience, and the growing literature about the potential links between restorative justice and desistance (e.g. Claes & Shapland, 2016), then I think we do have a need to find out what is most helpful to whom in what circumstances. So I do still plead for detailed recording by providers of what they are doing (a specimen video from each provider would be wonderful). And I would also advocate some shaking of the research community out of the complacency that it is OK to offer the same process to everyone.

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