The Annual Review of Interdisciplinary Justice Research

Volume 1, Fall 2010

Edited by
Steven Kohm and Michael Weinrath
The University of Winnipeg
Centre for Interdisciplinary Justice Studies (CIJS)
ISSN 1925-2420

The New Tough on Crime: A Restorative Justice Perspective

Colleen Pawlychka, Simon Fraser University

Abstract

Film is one of the primary methods employed by the contemporary restorative justice movement in an attempt to broaden its appeal and acceptance. This paper, which provides an excerpt of a larger thesis study, examines the framing of restorative justice in training, educational and informational film. Utilizing the frame alignment processes of frame amplification, extension and transformation offered by Snow et al. (1986), this paper discusses how the movement extends its primary framework to include a "tough on crime" approach through film, thus broadening its appeal and enhancing its potential for acceptance and implementation.

Introduction

Restorative justice has "burst onto the international stage" (Daly & Hayes 2001: 1), "emerging as an increasingly important element in mainstream criminological practice" (Latimer 2005: 127). Since the 1970s, traditional indigenous as well as dominant cultural practices of addressing youth crime have been studied, amended and developed. Programs have been implemented and modified, theories debated, politicians, justice officials and societal beliefs have been challenged and legislation passed. Many youth worldwide who have offended have experienced various forms of restorative justice, while countless numbers of victims and their families have actively participated in the justice process.

As contemporary restorative justice grows, the manner with which the movement presents itself becomes critical in at-

tracting and mobilizing participants, securing funding and support, and enhancing its acceptance and implementation. Film is one of the primary ways through which the movement communicates its message and attracts potential participants and funders. This paper is an excerpt of a larger study where I examine how the contemporary restorative justice movement presents itself in training, educational and informational film, in an attempt to broaden its appeal and advance its acceptance and implementation, particularly within a hegemonic culture of retribution and punishment (Pawlychka 2010). Through the larger study I explore several aspects of the framing of restorative justice, including its attribution of causes of crime, strategies to address crime, and methods utilized to attempt to mobilize participants. I examine challenges faced by the movement, how these challenges are addressed through framing within the films, how this framing is influenced by the position of contemporary restorative justice within a hegemonic punitive and retributive culture and the obstacles this presents. For the purpose of this paper, I focus on one particular aspect of the findings, which is the contemporary restorative justice movement's attempt to broaden its appeal and acceptance through alignment with the dominant criminal justice system and societal value of being tough on crime. This finding includes the amplification and extension of the value of being tough on crime, and its subsequent transformation from a conventional criminal justice to a restorative justice perspective.

Literature Review and Methodology

Current adaptations of restorative justice draw from indigenous traditions as well as a variety of religious traditions. It also has roots in victims-rights and alternatives-to-prison movements (Zehr 2002), and Woolford (2009) argues that the politicization of justice and historical processes of colonialism are of equal importance in the evolution of contemporary restorative justice. Given these varied beginnings, it is understandable that there is no universally accepted definition or fundamental principles and values of restorative justice within the literature. Further, as a social movement (Elliott & Gordon 2005; Morris

& Maxwell 2002; Woolford 2009), contemporary restorative justice is in a "constant process of negotiating its meaning or identity, and therefore...there exists no one master definition" (Woolford 2009: 16). However, several scholars and restorative justice advocates provide working definitions, including Howard Zehr (2002: 37), a leading and authoritative author in the restorative justice field, who defines restorative justice as:

> A process to involve, to the extent possible, those who have a stake in a specific offence and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible.

As a social movement, contemporary restorative justice engages in cultural or political conflict on the basis of a shared collective identity. Since the 1970s, contemporary restorative justice as a social movement has evolved by striving to construct a collective identity, project this identity to attract potential constituents and supporters, and develop coherence among movement participants. Although there remains ongoing debate and discussion in this regard, the current identity is one of empowering and participating in alternatives to the criminal justice system, as well as to conflict in general.

One of the primary goals of social movements is to challenge or disrupt hegemonic discourses and practices in order to advance its own alternative cultural practices (Diani 1992). In order to accomplish this, Snow et al. (1986, 1988) explain that movements actively engage in the production of meaning for participants, antagonists and observers, to attract and mobilize current and potential constituents. This production of meaning is referred to as frame alignment,[1] which is defined as follows:

> The linkage of individual and SMO [social movement organization] interpretive orientations, such that some set of individual interests, values and beliefs and SMO activities, goals and ideology are congruent and complementary. (Snow et al. 1986: 464)

Snow and Benford (1988) explain that through frame alignment, social movements strive to accomplish three core

framing tasks, which include diagnostic, prognostic and motivational framing. Diagnostic framing refers to identifying the problem and its causes, while prognostic framing refers to identification of strategies to address the problem. Motivational framing is a call to arms, or provision of moral and material inducements to mobilize movement and potential participants.[2] These core tasks are accomplished through four frame alignment processes (Snow et al. 1986). The first, frame bridging, refers to the linking of two or more ideologically congruent but structurally unconnected frames, primarily through outreach, information diffusion and networking. Next, frame amplification refers to the clarification and invigoration of the interpretive frame of a problem or issue, and includes value as well as belief amplification. Value amplification is the identification and articulation of values which are basic to movement participants but may be ambiguous or taken for granted by potential participants. Belief amplification refers to emphasizing movement beliefs, as well as stereotypic beliefs regarding potential participants and antagonists, in this case, dominant criminal justice culture of society, politicians, justice officials, and the general public. Frame extension refers to elaborating and highlighting activities and interests that are incidental to the movement but salient to potential and targeted participants, in order to align values of potential participants with those of the movement. Finally, frame transformation is the reframing of meanings of values or activities from the movement's perspective, so that values which were already meaningful from the conventional framework are redefined to mean something entirely different. The frame alignment processes offered by Snow et al. (1986) provide the theoretical framework through which a qualitative analysis of eleven films was conducted. Films included in the analysis were selected from a total of thirty films obtained by the author at conferences, experienced at practitioner training and/or educational settings, purchased through Restorative Justice websites, recommended by scholars and obtained from Winnipeg universities, colleges and Mediation Services. Films were selected based on the following criteria:

1. Produced 1995 or later;
2. Promotes the practice of restorative justice, and contributes to the research question;
3. Intended audience is restorative justice movement participants, potential participants, stakeholders, funders, politicians or the general public;
4. Presents topics including mediation, victim offender mediation and/or conferencing; and
5. Availability.

Although it was not a criterion that films be presented as non-fiction, all films included in the study were presented in documentary, interview or case simulation/modeling, or some combination of these formats.

Following is a list of films which were included in this study, together with abbreviations:

- Burning Bridges (BB)
- Beyond Zero Tolerance: Restorative Practices in Schools (BZT)
- Circles (C)
- Complete Victim Offender Mediation and Conference Training (CVOM)
- Facing the Demons (FD)
- A Glimmer of Hope (GH)
- A Healing River (HR)
- Hollow Water (HW)
- Introduction to Conferencing (IC)
- Restorative Justice for Victims, Communities and Offenders (RJVCO)
- The Woolf Within (WW)

Findings and Discussion

Themes emerging from the data indicate that together, frame amplification, extension and transformation provide a comprehensive reframing of the value of tough on crime from the criminal justice system to a restorative justice system perspective, redefining justice.

First, frame amplification revealed stereotypic beliefs regarding antagonists themselves, as well as stereotypic beliefs regarding their perspectives on methods of dealing with offenders and crime.

"We'll make the decisions. We're going to sort everything out." (Barry Stuart, C.)

Justice officials are portrayed as the decision makers and all powerful authority figures, responsible for public safety and administration of justice. The films point out that police and courts are responsible for establishing legal facts, answering legal questions, and making decisions regarding guilt, innocence and punishment. Offenders are shown in handcuffs, surrounded by numerous guards as they enter and leave justice buildings. Court buildings are large and intimidating and images of judges seated at the front of the courtroom, raised above everyone else, are shown. The general public is portrayed as not only having developed a "911 mentality...thinking that (all) problems can be solved by professionals" (Barry Stuart, HR), but also as having "lost the ability to be real working, viable agents in (their) own communities" (Liz Elliott, HR). Accordingly, the public is portrayed as *expecting* "the system" to apprehend and prosecute offenders to ensure responsibility and accountability through conviction and punishment.

"Trail 'em, Nail 'em, Jail 'em" (Mark Umbreit, RJVCO).

Belief amplification reveals that dominant society values accountability and responsibility, and that these are directly equated with punishment, which is synonymous with prison time. From this perspective, responsibility refers to establish-

ment of guilt imposed by the courts, while accountability refers to punishment for the offence. For example, a reporter in BB explains that responsibility has been established, as, "all six pleaded guilty" and that they will be held accountable, as "for that they'll spend the next 18 to 23 months behind bars...then each will be on probation for five years..." (Reporter, BB). Captions also affirm this perspective. As a prisoner in FD spoke, the following caption appeared at the bottom of the screen:

> Karl Kramer
> Sentence – Murder
> 15 years – 11 years minimum.

The word "sentence" indicates that Karl was held responsible for the murder, with the length of prison time indicating that he was held accountable. Similar captions appear for other offenders indicating their level of responsibility, i.e. murder vs. manslaughter, and the extent to which they have been held accountable, i.e. length of prison time assigned. The value of justice is also intertwined with individual responsibility and accountability from the dominant societal perspective. For example, in FD, following sentencing of offenders to various prison terms, a victim's father explains, "they've caught the people who have done this terrible crime to my son and justice has been done." Further, captions with prison sentences under offender names and images of barbed wire tops of prison fences are accompanied by statements such as "I guess justice has been done."

"For 20 or 30 years politicians have been falling all over themselves to get tough on crime" (Attorney General, IC)

Dominant society highly values revenge and punishment, which represents the concept of being tough on crime, and subsequently justice. Prison sentences are equated with tough penalties, and antagonists are portrayed to believe that the lengthier the sentence is, the tougher the penalty. For example, Judge Barry Stuart refers to "hammering offenders" by sending them to prison (C, HR), while Jim Hart explains that "victims want revenge and revenge means prison" (RJVCO). In FD, Joan

declares, "In the old days, where they used to let the family stone them to death, I think that was very just punishment for people." A powerful example of this value is presented in GH by Don Streufert, the father of a murder victim, who asks, "What else can there be besides retribution and revenge?"

Overall, frame amplification indicates that for potential movement participants, accountability and responsibility equals punishment, which is synonymous with prison. Further, prison, particularly lengthy sentences, is equated with tough penalties.

"Come watch some serious butt being kicked because that's what happens." (Deputy Principal, IC).

In order to align itself with the value salient to potential participants, through frame extension the films portray restorative justice as being tough on crime. Several films include statements illustrating how arduous the process of restorative justice is. For example, a guidance counsellor in IC declares that "no one who has ever experienced a conference would ever agree that it was anything but an excruciating process," and narrators emphasize the tough aspect of restorative processes, including, "Bemidji's response to crime forcefully brings that home," and "confronting the victims is the hardest thing the offenders have done" (FD). Offenders are warned, "Don't take circle sentencing if you think this is the easy road, because if you don't make it... I'm going to hammer you" (C), and in WW, even the victim explains the offender's reactions to the grueling process as, "I mean it was like a train hit him!"

Images of offenders pacing nervously in their cell prior to conferences (FD), their reluctance to participate at all, and their body language during the conference also attest to the tough aspect of restorative justice. All films included several verbal and nonverbal behaviours (Nathanson 1992; Keltner & Shiota 2003) indicating that offenders were experiencing feelings of shame during the restorative process as well as pre-conference interviews.

Two films connect the notion of shaming with being tough on crime. In these films humiliation and degradation are intended to induce shameful feelings in the offender, in contrast with the concept of reintegrative shaming which allows for expiation of a sense of shame naturally experienced by offenders as they learn the impact of their inappropriate behaviours (Braithwaite 1989). Although all films indicate experiences of shame, the connection to tough on crime is made through the interpretation of how the shame is experienced. In these films, shame is *inflicted* upon offenders through name calling, derogatory comments and aggressive behaviours, which is consistent with the tough on crime approach. For example, during the conference process, offenders are called "maggots" and "cowardly little turds" (Joan, FD) and the victim's father threatens, "I'm going to be your nightmare" during the offender's prison sentence (FD).

Through narration, victim and offender statements, body language and shaming, restorative justice is framed as being tough on crime, extending its primary framework to align with this value, thus enhancing its appeal to potential participants.

"Hard time ain't hard to do" (Mark Umbreit, RJVCO)**.**

Frame extension is a "hooking process" (Snow et al. 1986: 473) that attracts potential participants, allowing the movement to then engage in frame transformation. In doing so, the dominant criminal justice responses of punishment and prison are transformed from tough to ineffective, immoral and, more importantly, unjust. For example, after being arrested for a break and enter, Peter Woolf explains, "It was just a bad day at the office for me so I'm off to prison. I can't wait to get there because getting to prison means I'll get some drugs" (WW). Ex-offenders explain that they never understood the court processes, while various speakers explain the process as, "they're (offenders) shuffled in and out of the courtroom and they walk away unaware of what's happened" (Security Manager, IC). Kay Pranis emphasizes that the criminal justice system and prison "insulates offenders from the human impact of their

behaviour," and Joe Solanto, (HR), explains physiological brain chemical processes that restrict youth from thinking logically and rationally, thereby rendering punishment for their behaviour, or the criminal justice system's tough response, as unjust. Finally, the following is a most poignant illustration of prison as ineffective and unjust:

> I knew how to pick locks, start cars without keys, forge cheques, write paper cheques, that's the education I got in jail. That's what I learned. But the other thing I learned, sadly, is to fight (Harold Gatensby, C).

Captions also contribute to this transformation of punishment and prison to ineffective and unjust, as the following caption from C demonstrates:

> At most, 4% of Canada's population is Aboriginal, yet some 16% of all inmates are Aboriginal, as high as 55 to 90% in four locations.

"It's fearful to be totally exposed and you're naked in your responsibility" (Karl Kramer, FD).

Once punishment and prison are transformed from being tough on crime to being ineffective and unjust, a new meaning for tough on crime through a restorative justice lens is presented. Through this new lens, accountability and responsibility remain equated with being tough on crime. However, responsibility involves the offender accepting blame for the incident, while accountability refers to offenders facing the victim, learning the impact and, to the extent possible, repairing the resulting harm. Howard Zehr (RJVCO) explains that crime creates obligations for the offender to make things right, rather than an opportunity for punishment, and Rich Heffernan (BZT) refers to responsibility and accountability as "teachable moments" which provide the opportunity for offenders to learn how they affected other people, find ways to repair the damage, and learn the reason such behaviour is unacceptable. Further, a police youth advisor in IC explains it is the youth's *right* to be educated from the experience because it is this

process that allows them to "develop as full human being(s)." Collectively, the films clearly demonstrate the importance of offenders assuming responsibility and accountability for offences as well as the difficulty. For example, in CVOM, while considering conference participation, Lynn states, "It's going to be all adults in the room and I'm the offender, and everyone will be looking at me. I don't know – that's tough." This hesitation is shared by numerous offenders prior to mediation and conferences, and facilitator and mediator Mark Umbreit explains:

> The notion of going eyeball to eyeball with the people you violated is not easy. I have seen tough, strutting around felons who are tremendously nervous and anxious as they walk up to the home of the victim with me as the mediator (RJVCO).

The actual meetings are also very difficult for offenders as they learn the impact of their behaviours from victims and community members. Body language indicates stress and shame in BB as a community member encourages young men who committed arson to think about firefighters who were "not much older than (you) fellows...and the jeopardy they were placed in" (John). Offenders face the impact of their behaviour on their own families as one offender expresses shame after learning that as a role model, he let down his little brothers (BB). Others hang their heads and fidget as friends of a murder victim describe "seeing your mate in a coffin" (Brendan, FD). Finally, offenders struggle to provide explanations for their behaviours, such as "I wish I could offer up a reason as to why I did what I did. But I cannot. None of us grasped just how horrible and serious what we were doing was" (BB), and "It wasn't *your* fence. It was a fence. It wasn't *yours*. Like, it was just a fence, not *your* fence. I didn't think about you. I didn't think about the person who lived behind the fence" (CVOM). Finally, offenders determine ways to repair harm, providing often tearful apologies, writing letters of apology, repairing damaged fences, returning stolen articles, providing transportation to victims, participating physically and financially in

rebuilding destroyed property and even working with victims of serious crime. Images of offenders fidgeting, crying, shifting nervously, and avoiding eye contact attest to the difficult and emotional struggle they experience during restorative processes, and perform the work of frame transformation by showing the rigours of restorative justice.

"I was glad we did it this way instead of going through the courts...because I know the reason. I know they're sorry. I know that I can go on now" (Victim, IC).

Finally, this new meaning for tough on crime is skillfully bound to the new concept of justice, as victims, offenders and community members attest to their satisfaction and healing. For example, "I'm feeling so much better. I'm feeling back to this is my neighbourhood, my block, my house" (Rachel, CVOM), and "Because of that conference it initiated change. I implemented change but it sort of gave me the kick start I needed" (Peter, WW). Community members mingle and shake hands with offenders following conferences while light, upbeat music provides an atmosphere of healing, and captions such as "Restorative justice is proven to reduce reoffending by up to a half" (WW) attest to a transformed meaning of justice. These images and statements complete the transformation process, redefining tough on crime from the restorative justice perspective, and powerfully connecting this to, and redefining, the value of justice.

Conclusion

According to Snow et al. (1986), in cases where there is little overlap between perspectives of potential adherents and perspectives of the social movement, frame transformation becomes critical in the attraction and mobilization of participants and advancement of the movement. The importance of this process is clearly demonstrated as the contemporary restorative justice movement employs frame amplification, extension and transformation within the films, extending its primary framework to include the value of being tough on crime. In doing so, this, as well as responsibility, account-

ability and justice are redefined from the restorative justice perspective, broadening the appeal of the movement and enhancing its acceptance, implementation, and funding potential, particularly within a hegemonic culture of retribution and punishment.

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Endnotes

1. The concept of framing, as used by Goffman (1974: 21) refers to a "schemata of interpretation" which renders events that might otherwise be meaningless into something meaningful, by organizing individual or collective experiences and guiding action. Goffman argued that through primary frameworks, individuals or groups perceive, identity and label occurrences in order to "incorporate the will, aim and controlling effort of an intelligence." Snow et al. extend this framing concept to include frame alignment, discussed in this paper.
2. Detailed analysis of the core framing tasks within the film selection, and implications for the movement, is contained in the original thesis.
3. Please see Pawlychka (2010) for more detailed discussion of shaming, in particular, how its framing reveals the potential for punitive practices to be absorbed into restorative justice, resulting in the loss of restorative principles and values.