



Research and Practice

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Victims and Restorative Justice Around the Globe

by Marian Liebmann

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This article is based on a talk she gave at the recent Effective Restorative Justice Conference, held March 20-21, 2002 in Leicester, England.

I have conducted victim/offender mediation training about victims' perceptions of restorative justice in several different countries, including Russia and several African nations. Most of these countries have criminal justice systems in crisis. Are victims in these places right to hope for a better deal from restorative justice? To what extent is restorative justice an alien Western technology or a way for such countries to rediscover their roots?

I need to point out that this article is not a systematic survey of the world. It is a set of personal reflections based on the countries where I have had the good fortune to be invited to train, and accordingly may not convey the total picture in these countries. But I had experiences in these places that caused me to stop and think about some of the assumptions I have taken for granted in my work in the United Kingdom.

I will start by looking at some of these assumptions so that we can compare them with ways of working in some other countries. Then I will describe some of my experiences, country by country, noting the points where questions arose for me. I will finish by looking at the reasons why restorative justice is being welcomed in many countries as a process with something particular to offer victims.

Mediation's Benefits for Victims

Victims who turn to mediation have the opportunity to:

- learn about the offender and put a face to the crime
- ask questions of the offender
- express their feelings and needs after the crime
- receive an apology and/or appropriate reparation
- educate offenders about the effects of their offences
- sort out any existing conflict
- be part of the criminal justice process
- put the crime behind them

Notice how few of these points have very much to do with material reparation, which is addressed through three common, important provisions:

- insurance schemes for house contents and for cars
- the possibility of compensation through the courts
- statutory criminal injuries compensation for (some) violent crimes

Many countries in Europe have similar provisions, although there is great variation from country to country (Goodey 2002). Countries such as Australia, Canada, New Zealand, and the United States also have many of these same provisions. However, these are not to be taken for granted worldwide. Many countries have none of these, and this changes how victims perceive their court system and possible opportunities for restorative justice.

Russia

I have conducted two pieces of training in Russia. The first, in 1999, was in Moscow for the Center for Legal and Judicial Reforms. The second, in 2001, was for the "Chance" Project in Ekaterinburg, an industrial city of two million inhabitants just east of the Ural Mountains. Both these organizations are non-governmental organizations (NGOs) trying to influence the harsh criminal justice system, relying on grants from many sources, often outside Russia.

Moscow's Center for Legal and Judicial Reforms

There has been growing dissatisfaction with the criminal justice system in Russia. Although there is a high crime rate, about 60% of victims of violent crimes do not go to the police, because their experiences tell them it will be of

no help (*Maksudov, Fliamer and Grasenkova 1998*). The system is based on retribution, with high use of prison for offenders, which only exacerbates their problems, which often stem from their social situation, especially poverty.

Maksudov, Fliamer and Grasenkova go on to comment on victims' position:

Under the retributive system, victims very rarely have a chance to speak out for themselves, and feel frustrated because of the impersonal character of the criminal justice system. They wonder why they do not receive any compensation. Many of them lose self-esteem, trying to understand why they were chosen to be victims, and live in fear.

They see restorative justice as a way of providing a constructive way forward for victims and offenders.

Over the last few years, the Center for Legal and Judicial Reforms, led by co-directors Rustem Maksudov and Mikhail Fliamer, has been trying to introduce mediation into the criminal justice system, to help both victims and offenders. The group has had Howard Zehr's book *Changing Lenses* translated into Russian and more recently John Braithwaite's *Crime, Shame and Reintegration*. They started practicing victim/offender mediation in a small way in the Tagansky district of Moscow and have now expanded to other areas in Moscow and several towns and cities around Moscow. They have had grants from many different organizations, including American Mennonites and local Quakers (who financed my visit), and are about to start a large piece of work funded by the UK Department for International Development over three years.

In Russia, mediation is legal. Article 9 of the Criminal Proceedings Code allows a case to be withdrawn if it is a first offence, the crime is petty, or the offender has reconciled him/herself with the victim and has restored the victim's losses. However, the lack of clear procedures for this can sometimes lead to abuse of the situation. So the introduction of a mediation scheme has been seen as a way of protecting victims' and offenders' rights. The Moscow group has drawn up a list of issues which must be clarified to enable mediation schemes to work within the Russian legal framework.

There are roots of "restorative justice" in Russian customary law, called "obshchina," in which village elders helped to resolve conflict in the community, which was based on the fact that people needed to live together for the rest of their lives. A good example shows a land dispute between two peasants in which one was judged to have no rights but was still awarded some land because "People need to live together for the rest of their lives." So the Moscow group feels that restorative justice has roots in Russia and is not "an import imposed from the West."

Training

My brief with this group was to consolidate their existing skills in victim/offender mediation and to introduce conferencing techniques. The course lasted six days. I was working through interpreters. Sixteen people attended, mostly social workers or psychologists working with young people in youth clubs or in the courts. This meant that they were inclined to be offender-centered in their approach to victim/offender mediation, a common failing of new mediation services.

Thinking about victims of crime seemed new to them. I think this may be because the problems of the conventional justice system are very obvious. More and more people are in prisons, which are grossly overcrowded, leading to increased incidence of such scourges as TB (*PRI 1999*). It is being seen as an urgent priority to provide another way of dealing with the rising number of young people in prison. So victim/offender mediation and restorative justice are seen by many as a way of diverting young people from the courts and prison. Victim's needs are not so visible, as they have not been articulated to the same degree as in the UK. Nevertheless, in view of their isolation, they have potentially a lot to gain from restorative justice.

Role-play scenarios in the training sessions were based on cases the leaders had actually dealt with:

- Robbery of a small amount of money by one teenager from another teenager
- Use of an air pistol causing slight facial injury
- Theft of money from two friends by a teenager to spend on drugs

I used some of these to do more than just one role-play, to illustrate different models.

Case study: the air gun

I was able to use the scenario involving the air gun to demonstrate the extra dimension that conferencing can bring.

In the morning we did a role-play of a victim/offender mediation. The crime was the use of an air pistol by a 17-year-old boy. He was given it by a friend and thought it was old and didn't work. He was "mucking about" with it and pointed it at a passing tram. To his surprise it went off, breaking a window that landed a fragment of glass in a girl's face — a classmate, as it happened — causing a slight facial injury. Obviously the girl was very shocked. The police thought it was not an accident and arrested him, but the case was later referred to mediation.

The mediation enabled the victim and offender to discuss what had happened, and help the boy realize the distress he had caused. He was seen as a leader in his class and had previously seen himself as a hero. The mediators worked towards understanding regarding the effects of the crime and an undertaking about future behaviour.

However, there was a sub-plot to this situation and this enabled us to expand this scenario to a victim/offender conference in the afternoon, involving the whole group as conference coordinators, the victim's parents, the offender's parents and several classmates. The girl who had told adults of the offence had been ostracized by the rest of the group for 'grassing' (*Editor's note: Grassing occurs when someone reports something to officials about what someone has done*), and the conference coordinators facilitated a discussion between her, the offender, the victim and the rest of the group so that they could repair the damage to these relationships as well.

This role play illustrated the way that all the victims in this situation could benefit from a restorative process, giving them a chance to have their voice heard and to mend several sets of relationships.

Ekaterinburg

Quite independently from the center in Moscow, an organization in Ekaterinburg (situated on the eastern side of the Ural Mountains, nearly in Siberia) also became interested in restorative justice. "Chance" is an NGO founded by Vera Strebizh to provide legal advice and other forms of help to young people in trouble with the law. They had linked up with the Children's Legal Center in the UK (based at the University of Essex). Chance had become interested in restorative justice as a way of preventing juvenile offenders going to prison, and of providing something for their victims. On one of their visits to the UK, the Children's Legal Center had organized a conference on restorative justice for them, in which I and others had taken part.

Their idea was to start a Mediation Lab, as a place where lawyers, psychologists and psychiatrists would be available for consultation. These professionals would make every effort to reach out-of-court decisions for cases involving juveniles. They saw the advantages of this as helping juvenile offenders and providing compensation to victims. At that stage they saw the expertise of these professionals as sufficient to provide the mediation service (*Chance* 1999).

After visits of several other restorative justice experts who spoke at conferences there, I was asked to deliver a victim/offender mediation skills training course as the final part of the "partnership package." The original plan for a five-day victim/offender mediation skills training was changed to a two-day conference by Chance, as this was the maximum time people could take off work. They had also asked for training in handling civil cases and schools work, so I prepared a two-day very basic general mediation skills course. I pared the handouts down to seven basic ones and sent them ahead to be translated.

The group of 30 (seated neatly in a block of desks) comprised mainly professionals who work with young people experiencing problems — homelessness, drugs, alcohol and crime. So they were police, social workers, psychologists, lawyers and teachers. Again, I was working through an interpreter. They found the concept of mediation hard to grasp: feedback from role-plays tended to include how the mediators advised the disputants to do this or that. However, by the end of the second day they began to see the differences between mediation and their tradition of advising as professionals.

In the role-plays, we used scenarios from Chance's work, and small groups also chose scenarios from their own work. Although my original brief had been restorative justice and victim/offender mediation, it seemed that most of their mediation and conflict resolution cases were family conflicts around teenagers, such as:

- A child is abandoned when her parents go to prison for crimes connected with alcohol. A kind couple look after her. When her father comes out of prison, he wants to take her back, and has some legal rights. The couple want to keep her
- A teenager living on the street steals some money from a friend. The friend's parents want to report this to the police, but the friend does not
- The case below, which we simplified into a role-play

Chance's work was more like conflict resolution by "experts" than mediation, but with the aim of listening to all sides first.

Case study: family conflict with teenager

A girl of 15 ran away from home because of arguments with her mother. She skipped school and went drinking and had sex with other teenagers. She had a good relationship with her grandmother, but her mother did not allow any contact because she felt the grandmother interfered in the family too much. It was the grandmother who contacted Chance for help. Chance got in contact with the girl and helped to facilitate indirect contact with her parents (she refused to meet them directly). Chance then referred the girl for hospital psychiatric/ psychological assessment because she seemed at risk living a street life. They also worked with the parents and persuaded them to let the girl live with her grandmother. The girl returned to school and since then has moved on to college. Chance continued to monitor the family and offer support.

In most of these scenarios, there seem to be no clear-cut lines between offenders and victims. In fact, there seem to be a lot of victims of circumstances, due to family conflict, homelessness, drugs and poverty. This can be a reminder to us that in many situations of social stress, the needs of "victims" and "offenders" are often intertwined and very similar.

Uganda

This piece of training took place in 1999. My brief was to provide victim/offender mediation training for 16 people brought together by the Restorative Justice Initiative, a small NGO (headed by Grace Kiconco, a leading Ugandan advocate of restorative justice) trying to promote restorative justice. The NGO had established the Alternatives to Violence Project (AVP) and wanted to introduce victim/offender mediation to the Ugandan criminal justice system.

The Ugandan criminal justice system

The Ugandan criminal justice system is very punitive, based on the criminal justice system introduced by the Victorians from the UK in the nineteenth century. There seem to be only three penalties in the magistrates' and judges' courts: fines, imprisonment and capital punishment. Few people can pay fines, so prison is the main response to most crimes, large or small. There are many prisons in Uganda, both local low security ones for petty offenders and national high security ones; also women's prisons.

The court system includes magistrates' courts (with paid magistrates, who do a three year legal training) and higher courts with judges. There is also a lower tier of courts, the Local Council Courts, which were developed from the Resistance Committee Courts in 1987, to deal with civil cases and petty offences, and have powers to grant remedies such as reconciliation, compensation and apology; but these do not always provide satisfaction to victims, especially to women (*PRI 2001*).

There are current moves in several countries in Africa to return to a more traditional restorative justice model, which is more affordable and appropriate for most African societies. Western justice, with its emphasis on the offender, formal courts (usually too far away to walk to, so too expensive to access) and prisons, is too expensive for participants and governments to sustain. And prison is seen by the public as doing nothing for victims, who remain uncompensated for their losses (*PRI 2001*).

These new moves often include the introduction of community service, and this was being planned in Uganda when I was there. The group undertaking the mediation training had hopes of using mediation in connection with community service, and also to resolve petty offences and divert them from court or prison. Another concern of theirs was for victims at the local council courts — they felt they were often ignored completely, and mediation could enable them to have a voice. Members of the group also want to use mediation to help re-settle offenders on their release from prison.

Training

The trainees were drawn from several organizations: Prison Fellowship, Prisoners Aid Foundation, prison staff trainers, prison social worker, prison chaplain, ex-soldiers/returnees from exile, domestic violence victims' organization, a retired policeman, a pastor, an international relations graduate. Organizations invited but not represented were Rape Crisis and local council court personnel, probably because the information did not reach them (communication is a problem in Uganda). Uganda has over 20 languages, so English was the language in common.

I had discussed with Grace Kiconco the range of cases, which included victim/offender cases but also some cases more like community mediation in the UK. I deliberately left the details of the case studies open, to involve the group in developing the scenarios. The scenarios developed were:

- Victim/offender mediation — offender in prison. Assault by a woman on her husband's girl friend
- Victim/offender mediation — theft of watch from another person in minibus park
- Victim/offender mediation — offender in prison. Housebreaking (burglary 6 a.m. to 6 p.m.) and theft of food and tools from neighbouring farmer
- Ex-soldier returning from exile to own village after robbing and pillaging there
- Offence taken to local council court for resolution — young man gets girl pregnant
- False accusation of aggravated robbery (burglary 6 p.m. to 6 a.m., plus violence) resulting in automatic prison remand of one year

Case study: ex-combatant returnee

In the scenario concerning the ex-soldier returning from exile to his own village, he had asked for mediation because he had offended a lot of people in his village by his actions while a soldier. People in the village were not sure if they wanted him back. The mediation was between the ex-soldier and an elder representing the village.

Three small groups enacted this role-play:

- In one group, the elder and the village forgave the ex-soldier in exchange for an undertaking of good behaviour in the future, and the village provided two elders to vouchsafe his return and speak up for him
- In the second, the elder and village forgave him and gave him some land so that he could grow food and be self-sufficient
- In the third group, the elder shuttled between the ex-soldier and the other elders, and took him to meet them. The ex-soldier gave an undertaking of good behaviour, and the elders promised not to wreak vengeance on him for his past actions

A real-life example of restorative justice

An interesting example of restorative justice being put into practice occurred during the course itself. A young man working at the prison training school lent his motorbike to a friend who had an accident, injuring a child. The actual offender vanished, leaving the young man accused by the police. He went to the victim's family, offered to pay the child's hospital fees, became friends with the family, found his friend and got him to apologize - and together they went to the police. At the request of the victim, the police dropped the case.

Traditional mediation activities

During the last session we spent some time reflecting on the values on which the course had been based, and compared the model I had offered to traditional mediation activities in Uganda. Village elders still play a large part in resolving disputes in villages, and occasionally mediate but mostly pass judgement. The most likely use of mediation would be religious leaders helping parties (especially families or couples) to understand each other's points of view and be reconciled. All celebrate the resolution of a dispute with food and drink!

The general view of the newly trained mediators was that mediation could be very helpful in providing a voice for victims in many situations of crime and of community conflict.

The African Transformative Justice Project: Nigeria, Ghana, and the Gambia

This piece of training took place in the autumn of 2001 and involved a week's course in each of three countries: Nigeria, Ghana and the Gambia. It was funded by DFID and overseen by the African Transformative Justice Project, based at PRAWA (Prisoners Rehabilitation and Welfare Action) in Lagos, Nigeria.

Background

I first met Uju Agomoh at a Bishop of Lincoln's Conference and at a Mediation UK annual conference in 1994, just as she was starting PRAWA, to cope with the overwhelming problems in Nigerian prisons. She wanted to explore victim/offender mediation and kept the idea in her mind. Seven years later, with a staff of 20 and a track record of successful prison projects and publications, it was time to establish the African Transformative Justice Project (ATJP).

The goal of the ATJP is to "help create a more balanced justice system for Africa, by providing an alternative justice system (which is transformative in nature) that is closely allied to the traditions and culture of Africa." (PRAWA 2001) She decided to use victim/offender mediation as a model because of its flexibility and closeness to traditional African practices. The ATJP prefers the word "transformative," pointing out that very often victims of crime cannot be completely "restored" but the situation may be able to be "transformed."

PRAWA decided to start with three West African countries — Nigeria, Ghana and the Gambia — because they have several things in common: they are English speaking, have a British-based criminal justice and courts system, and are (relatively!) near each other. PRAWA made a proposal for a two-year pilot project to include training and implementation in these three countries, and obtained funding from the Department for International Development (DFID) in London.

These African countries have really suffered from the colonial imposition of the British justice system. Access to justice is difficult because it is often distant, expensive and irrelevant, so victims have a poor deal. For offenders the only disposals are fines (which people cannot pay) and prison. So most offenders go to prison, either for a short time or for a long time. Poor countries cannot afford this kind of system - most people in the prisons are on remand as the court waiting lists run to years. So victims, offenders, prisons and courts all have a lot to gain from a more informal and flexible system.

African traditional practices of dealing with crime are much more restorative, and it is ironic that PRAWA had to look to the UK for a way to bring back a more African way of doing things. But this was important to persuade judges and magistrates steeped in British court procedure, that alternatives could be viable.

A coordinator appointed by PRAWA spent time in each country gathering a group of stakeholders to ensure ownership of the project. The stakeholders were then asked to nominate suitable people to be trained as mediators. I was asked to develop and facilitate three courses, one in each of the three countries. In each case the course followed or preceded a formal Stakeholders' Meeting, which I also attended, speaking briefly about victim/offender mediation in the UK.

I was provided with an assistant trainer, a young woman from Canada on VSO, with excellent experience in restorative justice. Our first week was in Ghana, the second in the Gambia and the final week on PRAWA's home territory in Nigeria. In each country, we elicited role-play case scenarios from participants, so that they were realistic for them.

Ghana

The workshop started with 11 and finished with 21 participants, of whom half were from the Prison Service (including the only two women from Ghana). Others included people from Social Welfare, NGOs, the Fire Service,

a journalist and a judge.

Case scenarios for role plays included:

- Theft of chicken from hotel kitchen
- Assault - husband slapped wife at the beach
- Theft of and damage to car
- Rape
- House burnt down (arson) by former employee
- Armed robbery on way back from airport

The Gambia

There were two Stakeholder Events to introduce the Gambia training. One included a keynote speech by Judge Felix Lartey, Chief Justice of the Gambia, who finished with:

Transformative justice is founded on the belief that crime can become an opportunity to bring positive transformation into the lives of victims, offenders and their families.... You have a daunting task and with commitment you can bring change to the world and make it a better place for all of us. I wish you well in your deliberations and declare the workshop formally open.

The Gambian group was the largest group of the three: 33 participants from a very wide spectrum of agencies, showing evidence of good preparatory work to achieve this. The group included police, judiciary (including two senior magistrates and the chief justice of the Supreme Court), prison service, army, alkalos (village officials), traditional chiefs, area councils, several journalists, NGOs, students' union, women's organisations, governmental organizations (including Women's Bureau), social welfare, local authority, African Center for Democracy and Human Rights Studies, and the Ombudsman's office. Despite this wide participation, there were only two women (one of the women's organizations was represented by a man), both of whom were unable to be present for the whole course.

As we had three traditional chiefs with us, we asked them to explain how traditional mediation worked — it is still very much in use. In their model, mediators visit victims first, as cases come to them first through victims' complaints. This is the other way round from most mediation practice, where offenders have been apprehended and are already in the criminal justice system. So in our role-plays we adopted their practice of getting views of victims first.

Traditional mediation also suggested that written agreements were not part of their culture, so we adapted the section on "writing the agreement" to "things to think about for an agreement."

Case scenarios for role-plays:

- Theft of mobile phone on the bus
- Common assault in the market place
- Burglary of house during the night, of farmer's proceeds from sale of ground nuts
- Stabbing in stomach during fight between two men over a woman
- Armed robbery (and injury) of year's rent money from a couple

The mobile phone case caused considerable amusement, as the victim asked someone else with a mobile phone to telephone her number, and it rang in the underclothes of another woman on the bus! Mediators then undertook to mediate between the two women. Although this was a case made up by the group, it turned out that one of the senior magistrates (absent that session) had actually presided over an almost identical case!

There was considerable discussion concerning whether mediation could be undertaken without a change in the law. It turned out that this misconception was based on the knowledge of the chief of the Gambian Supreme Court of the Youth Justice and Criminal Evidence Act (England and Wales) 1999, introducing Referral Orders and Youth Offender Panels. He made it his business to be up to date with British legislation even before it was being practised in Britain.

Nigeria

This group, like the one in Ghana, started small but increased to 19 participants by the end. It was the most experienced group, in terms of familiarity with role-play and participative learning methods, and also in mediation-related activities. The group included several PRAWA staff, two mediators from the Civil Mediation Center, three Social Welfare staff (who mediate between family members in disputes affecting the welfare of children and young people), three senior magistrates and two AVP facilitators.

The Nigerian group differed from the other two in having a much stronger representation of women, almost half the participants. They were also much more assertive and contributed more openly than in Ghana and the Gambia.

Case scenarios for role-plays:

- Stealing a chicken from a neighbor
- Assault after argument in bus queue, resulting in broken glasses
- Burglary during the night of electronic goods, clothes and money
- Rape of 18 year old girl by houseboy

- Manslaughter - Okada (motorbike which takes passengers) driver went into person at bus stop after drinking
- Armed robbery in house at night, lost money and clothes, also injured

General points

Several points of interest arose, which are relevant to victims of crime, and which challenge some assumptions we might make.

The role-plays included victim-offender mediation at the different stages I had been asked to cover in the criminal justice system:

- Diversion to the community
- Police
- Courts
- Prison
- Post prison

The contribution of victim-offender mediation at each stage was discussed with participants, including whether/how victim-offender mediation would work at that stage in their country. Most participants readily saw the benefits of using mediation to divert offenders from their country's congested prisons, but had more difficulty understanding the relevance of mediation in or after prison. This may have been related to how they saw benefits for victims: where there is possibility of diversion, victims have something to gain in material terms; once an offender is in prison, s/he is no longer in a position to provide any kind of tangible reparation.

This came up in a different form as we tried to cover the widest possible range of offences and situations, moving from less serious to more serious offences, as their skills progressed. So, for instance, I would write on the flipchart: "minor offence of violence" or "major property offense." However, the distinction between personal and property crime (with my implicit assumption that personal crime was more distressing to victims than property crime) led to blank looks. Most of the course participants felt that property crime was just as — or even more — devastating to victims in a poor country with no insurance, compensation, or welfare benefits system. An injury was pretty bad, but the theft of earnings could leave a whole family destitute and starving.

The crime that was most repugnant to people in all three countries was armed robbery, a not infrequent occurrence, causing terror to many victims. The attitude was that armed robbers should be disposed of as summarily as possible — if lucky enough to be imprisoned, then the key thrown away. Armed robbers caught in the act were often lynched or 'necklaced' by victims or bystanders, that is, forced into a rubber tire, which was then doused in gasoline and set alight.

Generally speaking, victim/offender mediation and transformative justice made sense to all the groups, from social workers to magistrates and judges. This is largely because the retributive system is expensive and unwieldy, resulting in overcrowded prisons where people wait years before coming to court, and many die waiting. And victims' needs are not met, so they have less interest in keeping it going — and more opportunities to gain from restorative justice.

The Wider Picture

There are several recent publications that give a wider perspective to this whole topic. I am going to quote from just three of them.

Penal Reform International: Access to justice

The excellent book *Access to Justice in Sub-Saharan Africa*, published by Penal Reform International in 2001, based on work by Joanna Stevens in 1998, gives an overview of the role of traditional and informal justice systems in Africa. It bears out some of the factors I found in my travels. The book compares the formal state system with the informal system using two diagrams, while warning that differences may be a matter of degree rather than complete contrast (*PRI 2001, pp 121-4*). The inclusion or marginalization of the victim is a key aspect of contrast. These diagrams have many similarities to the well-known comparison tables of retributive and restorative justice models. The book states: "Traditional and informal justice systems are best suited to conflicts between people living in the same community who seek reconciliation based on restoration and who will have to live and work together in future." (*PRI 2001, p.3*)

DFID: Justice and poverty reduction

A recent DFID publication, *Justice and Poverty Reduction: Safety, Security and Access to Justice for All* (2001) starts with the Government recognition that, "Poor people, particularly women, are the most vulnerable to all forms of crime and civil conflict, including domestic violence; and that in very many cases, formal justice systems fail to protect them." (p. 2)

DFID also highlights the access issue: "Access to justice means that where people do need help, there are effective solutions available. Justice systems which are remote, unaffordable, delayed, or incomprehensible to ordinary people

effectively deny them legal protection." (p.12)

The booklet describes ways in which a traditional system of dispute resolution in Bangladesh, which discriminated against women, was improved by organizing village-level mediation committees on which women are represented.

Concerning penal reform, the booklet continues, "Prison conditions in most developing countries are appalling. Sentences which put reparation before retribution, and alternatives to prosecution and prison, are more humane and cost-effective."

Desmond Tutu: Truth and reconciliation

In his book *No Future Without Forgiveness* (1999), Desmond Tutu discusses the reasons for South Africa's choice of a Truth and Reconciliation Commission rather than a trial-based option. In the first place, a trial-based process would have been difficult to achieve, with so many perpetrators living alongside everyone else, still with considerable power. He then adds, citing one \$2 million case, "There were other very cogent and important reasons why the Nuremberg trial option found little favour with the negotiators in South Africa. It would have placed an intolerable burden on an already strained judicial system." (p. 27)

Later on in the book, he says: "Forgiving and being reconciled are not about pretending that things are other than they are. True reconciliation exposes the awfulness, the abuse, the pain, the degradation, the truth. (I)t is worthwhile, because in the end there will be real healing from having dealt with the real situation." (p. 218)

In a booklet accompanying the film about the Truth and Reconciliation Commission, *Long Night's Journey into Day*, Mary Morgan writes: "Justice is achieved when the victim's loss is publicly acknowledged, the offender is held accountable, the community is involved in healing and reintegrating both back into their common society, and the same commitment is made to healing victims as to punishing defendants." (Morgan 2001)

Conclusion

There seem to be several factors favouring the expansion of restorative justice in different countries. There is first the dissatisfaction with most formal justice systems, in Africa often based on British nineteenth century models. The most obvious aspect is the increasing use of prison, overcrowding and consequent problems, coupled with the escalating expense of prison. This in turn gives rise to victims' dissatisfaction: it is an expensive system that concentrates on offenders (albeit to punish them) and does not meet their needs for reparation and compensation. Finally, the formal court system is often inaccessible, both by virtue of distance, cost and alien language.

Where there is the legal possibility of diversion, many victims can access reparation more easily, and the process can be accomplished more quickly than going to court. Traditions of restorative justice can help to encourage an informal restorative system, as everyone sees it as "common sense."

Although we have been looking at countries with very different traditions and problems from the United Kingdom or elsewhere, it may be that we have lessons to learn. Although prison overcrowding is not of the same order in the UK as in many developing countries, it is worrying enough, with a new all-time high of over 70,000. The escalation of expense is evident. Maybe the courageous NGOs in Russia and Africa will be leading the way.

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