

A MORE HUMANE APPROACH TO ADDRESSING THE HARM OF CRIMINAL BEHAVIOUR



Introduction

In this paper, which is based upon research undertaken in 2017 and 2018,^[1] an alternative and more humane approach to addressing harm of criminal behaviour is presented. Our goal was to explore if this approach could transform the way society responds to crime.

When a crime is committed, criminal justice agencies focus mainly on the perpetrator as the problem. Attending to the harm of criminal behaviour rather than the perpetrator alters the orientation of approaches to crime. It recognises both the suffering caused by crime to victims, their families and the community and the suffering that causes people to harm others.



In addition to suffering caused, the meaning of the harm is also mediated by its wrongfulness. That it has no justification in law matters. For Shklar, injustice is often experienced through powerful, often distressing, emotions specific to the individual.^[2] It interrupts and disrupts lives, causing “shattered assumptions” about living in a world which can undermine the capacity to participate in society.^[3] The effects of experiencing injustice will often continue to dominate an individual’s life long after physical wounds have healed, punishment has been inflicted, or compensation received.

Consequently, many victims experience “secondary victimisation” by the criminal justice system which strives to engage with crime in an impersonal and rational manner.^[4] What are considered to be risk factors associated with offending, can be viewed from a humane perspective as harmful events or conditions which perpetrators of crime have experienced.^[5] A humane approach will understand that the reactions of society, the media, and the criminal justice system to crime play a significant part in adding to the harm endured by both victims and perpetrators.^[6] Social and criminal justice reactions often exclude victims and perpetrators from necessary resources, weaken significant relationships, and reduce personal responsibility, thus obstructing both recovery and reintegration.^[7]

The UN 2030 Agenda

for Sustainable Development and its goals are drafted to contribute to a safer world by reducing conflicts, crime rates and people's vulnerabilities and exposure to organized crime. Goal 16 of the 2030 Agenda is centered on promoting peaceful, just and inclusive societies, free from crime and violence, with justice for all. We will explain how focusing more on harm than on crime and using more humane or participatory reactions such as restorative justice approaches can contribute to this end. In the following sections we explain the values of more humane approaches, we address possibilities for change and the potential of restorative justice and we end with some conclusions.

Humane approaches

The harm of

criminal behaviour extends beyond those immediately affected to society at large, causing fear of crime, reducing social cohesion, exacerbating intergroup prejudice and conflict, and demoralising whole communities.^[8]

People can lose a common belief in a just, stable and moral society. People's sense of control over their lives and their ability to participate actively in society are diminished by the harm of criminal behaviour.

Humane approaches to addressing the harm of criminal behaviour aim to restore the internal and external resources required to participate actively in society to people responsible for harm, people who have been harmed, and others who have been affected. Humane practices would have the purpose of preventing or undoing injustices, and restoring the individual, relational and social harms that have caused and been caused by criminal behaviour.

The values that shape more humane approaches relate to the value we place on the individual, the value we place on how individuals relate to each other, and the quality of the society we aspire to create. The concepts of "the common good", "dignity of the individual", "solidarity", and "social justice" can frame what a human response to crime looks like: a response that respects, restores and sustains these values, as opposed to one that disregards, damages or violates them. From this viewpoint, a just society provides people with the opportunities and capacities to participate in their communities for the common good in a way that they choose.

The dignity of human beings is derived from the value of human life and the potential of people's capacity to choose their actions and to be responsible for them. To be a victim of a crime is to be treated as a means to another's end or to be objectified. This is dehumanising and

humiliating. Respect requires a refusal to stereotype, stigmatise, objectify or idealise individuals. Solidarity is derived from mutual responsibility and reciprocal support. Human beings can only live in relation to others.^[9]

Both actions for the common good and harmful behaviour have a “ripple effect” beyond those directly responsible and those directly affected by them. Families, friends, neighbours and communities have a stake in repairing harm and alleviating suffering. While other people may be a potential threat, they are also essential to our wellbeing.

Social justice refers

to fair and right relations, to the redistribution of resources and to the removal of obstacles to equality of opportunity and full participation in society. This is the foundation of human rights and of many international statements on crime and criminal justice. More recently it has focused on the value of diversity. Social justice can also address the neglect of victims and discrimination against offenders.

These values inform key principles of humane practice.

Rather than seeing individuals as simply products of their genes, their upbringing or their environment, a humane approach recognises their capacity to make meaning out of situations and events, to choose actions, to reflect upon those actions, to learn and to generate new understandings. More humane approaches offer opportunities for all parties to take active responsibility for the process of addressing the harm so that they may put it behind them.

Possibilities for change and restorative justice

A harmful act creates an obligation to make things

right with the individual who has been harmed and with society. By fulfilling such an obligation, the individual earns the support of society with all its benefits and responsibilities. In this way, the offender is redeemed; this is what Bazemore refers to as “earned redemption.”^[10]

More humane approaches should offer individuals the opportunity and support to “signal” that they are in the process of transforming themselves.

Any humane approach should be designed to enable

perpetrators to desist from crime or avoid harming other people, and should support victims to recover from the harm and suffering caused by crime. Both the processes of desistance (moving away from committing crime) and of recovery from trauma have relational elements.^[11]

Restorative justice espouses the values and principles

that are outlined above and that meet the UN Agenda Goals. It is an inclusive approach to addressing harm through engaging all those affected in coming to a common understanding and agreement on how the harm or wrongdoing can be repaired, relationships strengthened, and justice achieved.[\[12\]](#)

Restorative justice

places harm at the core of the justice process and engages all those who have been affected by the act of harm, including the perpetrator. The counter-intuitive aspect of the restorative process is that each party needs the other to have what has been lost or violated restored. Victims usually want those responsible for the harm to make themselves accountable in a direct and practical way. By doing so, perpetrators can earn respect by taking responsibility and making amends. Through such a process both parties may move on in their lives.

Storytelling and dialogue drive the restorative

process. Arendt wrote of the ability of stories to “reclaim our human dignity.”[\[13\]](#) Stories represent human beings as actors rather than passive victims or objects of others’ narrative or theories. They can restore dignity and often facilitate emotional and relational connections.[\[14\]](#)

The victim telling their story transforms the narrative from one of “shame and humiliation to a portrayal of dignity and virtue.”[\[15\]](#) Through a restorative process, dialogue has the capacity to “humanise what is going on in the world and in ourselves only by speaking of it [the harm], and in the course of speaking of it we learn to be human.”[\[16\]](#)

Meta studies show high satisfaction rates among victims, offenders and professionals that took part in a restorative justice process. The feeling of justice increases, participants feel that they are being taken seriously, the assumption of responsibility by offenders is appreciated and less recidivism is measured.[\[17\]](#)

For many people it is a moment of change, a new beginning, and that often relates to being heard and sharing narratives.

Conclusion

Values such as the common good, human dignity, solidarity and social justice can reorientate our criminal justice system in transformative ways. Creating a more humane criminal justice system benefits everyone, in particular the person harmed and the person who has caused the harm. In these turbulent times, material self-interest, disrespect, division, inequality, and severe judgements and punishment can seem to flourish. It is critically important that alternative values continue to be applied in practical and effective ways.

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[9] Emmanuel Lévinas, *Totality and Infinity: An Essay on Exteriority* (Pittsburgh: Duquesne University Press, 1969).

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[12] European Forum for

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[13] Hannah Arendt, *Men in Dark Times* (New York: Harcourt, 1968): 216.

[14] Meredith Rossner. *Just Emotions: Rituals of Restorative Justice* (Oxford: Oxford University Press, 2013).

[15] Martha Minow, *Between Vengeance and Forgiveness: Facing history and Genocide and Mass Violence* (London: Beacon Press, 2000).

^[16] Hannah Arendt, *Men in Dark Times* (New York: Harcourt, 1968): 25.

^[17] Joana Shapland, A.

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