

# THE ROLE OF THE COMMUNITY IN PROBATION AND RESTORATIVE JUSTICE: OPPORTUNITIES AND CHALLENGES

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CEP – Prague – 24.09.2015

# The 'community' has always figured in corrections and probation work

- Late 19<sup>th</sup> Century: volunteers visiting prisoners ('patronage')
- Beginning 20<sup>th</sup> Century: professionalization – social workers entering the prison
- After second WW: 'probation' practices & services
- 1960s: developing probation, community service and alternative sanctions
- 1990s: new generation community sanctions & measures
  - But also prison expansion: social services into the prison and again treatment programmes
  - Victim support and its appeal to the community: volunteers
  - Mediation programmes growing in Europe: appeal to the community

# The 'community' in evolving positions

- Some lines of development:
  - From caritas to profession
  - Intra-muros to extra-muros activities
  - Post-sentence to pre-sentence and prevention policies
  - Focus on offenders to victims
  - Renewed community ideology towards end of 20<sup>th</sup> C.
- The role of international organisations:  
community involvement strongly promoted
- Embraced by governments in neo-liberal climate

# Why involving the community?

- The public character of the conflict: criminal offences
- The victim's experience
  - Loss of trust
  - Coping = a social process
- The offender's responsibility
  - Transgression of social norm
  - Social re-integration
- Harm to society in abstract way, but also tangible effects on the community (vicarious victim)
- In the interest of CJS and service providers including probation

# ‘Community involvement’: fields of tension

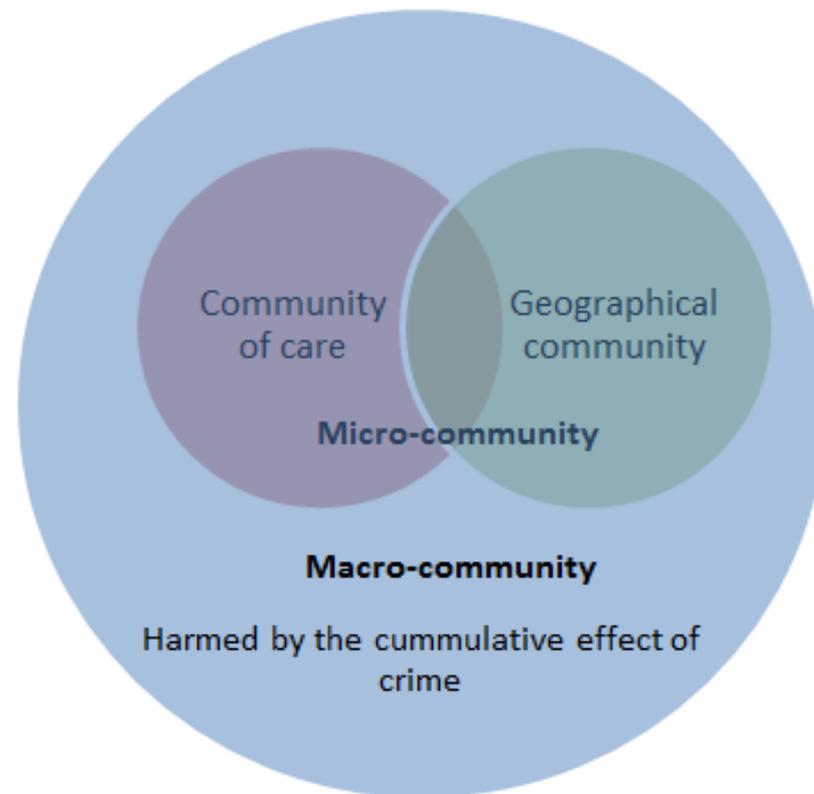
- Role of the community: passive or active (interventions in the community or by the community)?
- Involving lay people or ongoing professionalization?
- Whose community? Representative or selective?
- The punitive turn: involving the community to do what (community penalties)?
- Micro- or macro-communities? Interpersonal or structural level? Addressing social injustices?
- Community norms: to be imposed, clarified, challenged? Who is educating whom?

# The concept of 'community'

1. 'Community of care' (direct stakeholders)
  - Experience concern
  - Can offer support
2. 'Local community' (indirect stakeholders)
  - A social group, with a common social/cultural background
  - Same place/region
3. 'Wider community' (the public)
4. A multiplicity of groups and networks (not geographically bound) (same employer, member of Facebook group, ...)
5. A 'perception of connectedness', an attitude of solidarity: 'communitarianism'

# Dimensions of community

- Geography
- Interdependency
- Identity



# How does the offender experience 'the community'?

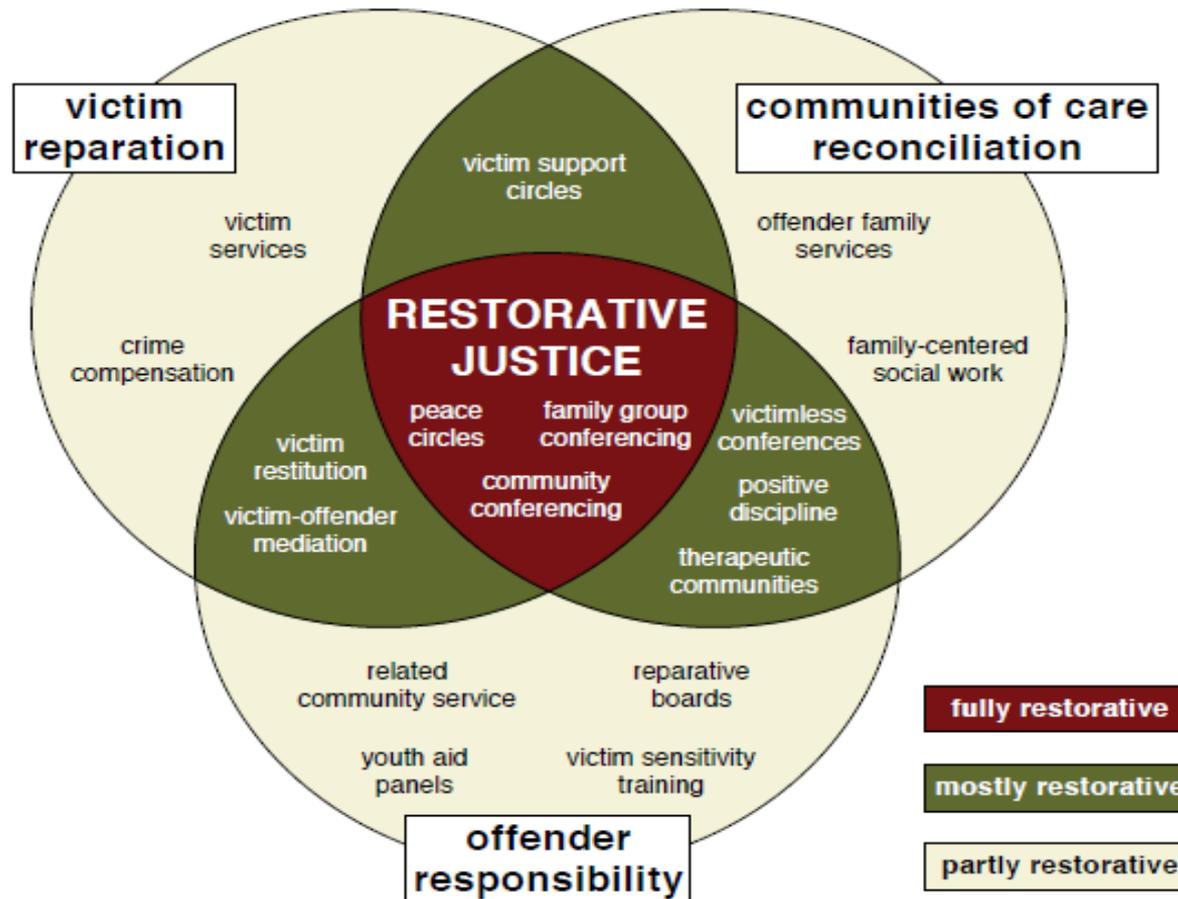
- Research on the experience of community service: offenders feel responsible to some degree, but do not feel they have harmed the community/society
- Are offenders oriented to the community as we hope they should?
- When do we bring offenders into contact with the community? After the judicial decision (which is not theirs)
- Can we establish community contact before and involve the offender in decision-making?
- Facilitating this process and broadening the perspective by mediating between offender-victim-community

# Restorative justice and its methods

- Victim-offender mediation
  - Family group conferences (Community conferences, ...)
  - Peacemaking circles (Sentencing circles, Healing circles, ...)
- + Variations and mixed models (Restorative circles, ...)

# Degrees of 'restorativeness'

(P. McCold, 2000)



# Community involvement in RJ practices

- Active support:
  - 'Communities of care'
  - Wider involvement:
    - Direct citizen participation (volunteers, board members, ...)
    - Cooperation with civil society organisations (referrals, training, support)
- Passive support:
  - Public acceptance
  - The need for developing strategic communication towards the public
  - Policy making/politicians
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# Community involvement in 'justice' processes

- Old forms: jury and lay judges
- Contributing to a more democratic (responsive, accountable) system of justice
- Informal-formal dialectics: can a system be created for continuous bottom-up value clarification, “where the justice of the people bubbles up to reshape the justice of the law and where the justice of the law percolates down to the world of citizens ...”? (Braithwaite and Parker)

## Restorative justice

- Handling particular criminal 'cases': 'what happens to victim and offender?'
- Strategy at individual level: participation, procedural justice
- 'Works' when key actors experience satisfaction (process and outcome)
- Restoring communities

## Community justice

- Collective experience: 'what happens to the community?'
- Broader strategies, including crime prevention: to improve community level where this has been damaged by crime
- 'Works' when quality of life in a given place improves
- Transforming communities

(A. Crawford)

# How to operationalise 'community'?

Lessons from an English research project on Youth Offender Panels (Fonseca Rosenblatt, 2015)

- Framework:
  - Legal basis 1998-1999-2000-2008-2012 + Government guidance
  - Set up as 'restorative justice' practice (principles of responsibility, reparation and reintegration)
  - Panel composed by: at least 2 members of the community and 1 YOT member
  - Results in youth offender contract
- Research: interviews, observation, document analysis

- Some findings:

- Pre-panel meetings: also on extent of reparation to be imposed
- Panel meetings do not take place in community locations
- Victims are rarely present
- Usually attending: 2 community panel members, 1 YOT worker, the young person and one 'appropriate person' (mother)
- Panel members typically white, British, middle aged, middle class, female
- Panel members act both as facilitators and community representatives
- Contracts are not negotiated, but rather 'explained'
- Contents of contract:
  - Reparation to victim or community: according to pre-scribed criteria, not on basis of community ideas or resources
  - Programme of interventions to prevent re-offending: often menu-driven practices (proposed by YOT)

- Conclusion:

- Although community panel members play a central role, they do not 'own' the process, they do not determine the direction and outcome
- Community dynamics are not involved; panel members do not explore or develop any of the 3 dimensions of community (geographical, relational, identity)
- All share a 'YOT panel culture' – professionalization of panel members
- Hence a passive conception of community involvement

# More lessons ...

- Lessons from a European project on 'Peacemaking circles'
- Lessons from European FP7 project ALTERNATIVE: intercultural settings
- Probation officers, victim support workers, mediators:
  - Strong expertise in understanding the life world of their clients
  - But do they understand the life world of society?
- No methodological tools available to involve the (wider) community actively:
  - How to address and redress social harm (besides personal and relational harm)?
  - How to empower the community (besides victim, offender and their communities of care)?

# What we need

- A better understanding of our communities, its potential and risks
- No butterfly collecting or nostalgia, but bridging the gap between ideals and normative aspirations on the one hand, and empirical knowledge on how community interventions function in reality on the other hand
- Building an autonomous position in society and a relationship with public (justice and other) authorities
- Bringing in expertise from other disciplines and to develop strategic affiliations with other social organisations and movements