BOOK REVIEWS

RESTORATIVE JUSTICE AND CRIMINAL JUSTICE: COMPETING OR RECONCILABLE PARADIGMS?

This text is the outcome of two seminars held by scholars of international renown. It seeks to clarify the aims and principles of restorative justice and its, at times, difficult relationship with more traditional models of justice. Restorative justice is emerging as a potent model of justice, and this volume engages in an evaluation of the aims and limiting principles that should govern restorative justice, its social and legal contexts and the impact thereof, at a more practical level. The chapters are divided into two categories: the first explores restorative justice and the use of theory, and the second examines the impact of restorative justice at a practical level, including experiences in countries such as Canada and New Zealand.

The first chapters provide incisive accounts on restorative justice theory, with Braithwaite arguing for the integration of macro and micro level theory, seeking also to develop a methodology for progressively elaborating on restorative justice values through empirical enquiry. Under the theoretical section of the text, desert-oriented approaches to sentencing are further explored, but alongside alternative viewpoints (such as an ideal ‘making amends’ model). The desert-oriented approaches reflect also the theoretical emphasis that the aims and limits of restorative justice are particularly in need of clarification. Von Hirsch, Ashworth and Shearing conclude that the conventional multi-purpose rationale for restorative justice poses serious problems of coherence, and may, furthermore, serve a largely aspirational role. However, with reference to the health warning of Roberts on a positivist juridical tunnel vision of restorative justice and international criminal justice, as well as the views of Braithwaite on competing values that can be balanced, the reader may be inclined to concede that restorative justice is indeed slowly developing a sophisticated theory of transition, enabling experimentation and innovation combined with a liberation of narrow strictures of evaluation.

In her analysis as to whether restorative justice and criminal justice are just responses to crime, Shapland examines restorative justice in a legal and structural context and poses the idea that restorative justice and criminal justice outcomes are not necessarily different, but agrees that not all sentences embody restorative justice. The notion of ‘no necessary distinction between restorative justice and
criminal justice in the types of outcomes each could admit’ (p. 201) could hamper restorative justice praxis, but could also raise some general concerns around the ‘arrest’, or stifling of both social justice and participatory democracy, maybe also with a sense of realism about the persistence of the worst features of the old regime.

The text concludes with further challenges and very promising restorative strategies. However, with reference to the title as to whether restorative justice is competing or reconcilable with criminal justice, the following questions remain: For restorative justice to be a holistic new way of thinking about justice, should it not transcend comparative (and at times absorbing) conceptualisations in relation to criminal justice? If not, it may risk being caught up in a network of supporting oppositions of the criminal justice model rather than seeking to integrate around its own centre of the most restorative justice values possible.

Robert Peacock
Department of Social Sciences
Midrand Graduate Institute
South Africa

REPAIR OR REVENGE: VICTIMS AND RESTORATIVE JUSTICE.

This book opens with a story which will no doubt be familiar to victimologists. In the distant past, those who injured others through ‘criminal’ acts were brought under pressure by their communities to make restitution to the injured party, and the injured party participated meaningfully in the process by which the form and amount of restitution due to them was determined. Then, the state took over the task of dealing with criminal offenders. It replaced restitution with punishment and concomitantly excluded the injured party from taking part in the ‘sentencing’ process, now geared towards determining what punishment the offender should suffer. This exclusion of the victim was ‘rationalised’ as necessary to ensure that offenders’ sentences were not influenced by the capricious attitudes of victims.

Today, Strang reports, many victims express dismay when they discover just how excluded they are from the process by which ‘their’ offenders are dealt with. Moreover, research shows that, as a result of this exclusion, they do not experience justice. Over recent decades, however, victims have fought back, winning