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**Article (Accepted version)  
(Refereed)**

**Original citation:**

Rossner, Meredith and Bruce, Jasmine (2016) Community participation in restorative justice: rituals, reintegration, and quasi-professionalization. *Victims & Offenders*, online . pp. 1-19. ISSN 1556-4886

DOI: [10.1080/15564886.2015.1125980](https://doi.org/10.1080/15564886.2015.1125980)

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Available in LSE Research Online: January 2016

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**Community Participation in Restorative justice: Rituals, Reintegration, and (Quasi)  
Professionalization**

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**Draft Paper accepted for publication at *Victims and Offenders***

**DOI: 10.1080/15564886.2015.1125980**

Accepted November 2015, Published January 2016

**Abstract**

Community has long been identified as the key third party in restorative justice processes. However, when it comes to both theorizing community in restorative justice and the actual practice of community participation, conceptual clarity is lacking. A careful reading of the sociological literature on restorative justice and community point to two main reasons why we want to encourage community participation: the creation of effective ritual and offender reintegration. In this paper, we present findings from an empirical study of conferencing. We explore varieties of community participation and discuss the benefits and tensions that arise when community participation becomes a formalised element of a mainstream restorative justice practice.

**Key words: restorative justice; conferencing; community participation; reintegration**

The community has long been identified as the key third party in restorative justice (RJ) encounters. As Braithwaite writes, justice is restorative when it is ‘about restoring victims,

restoring offenders, and restoring communities as the result of a plurality of stakeholders' (1999:1). However, the meaning of community often goes undefined and unchallenged. This lack of conceptual clarity has troubled scholars and various attempts have been made to address this (Bottoms, 2003; Crawford and Clear, 2003; Cunneen & Hoyle, 2010; Doolin, 2007; Johnstone, 2013; McCold, 2004). Yet there is still a significant amount of murkiness when it comes to both defining and analyzing the role of community in RJ.

In practice, community involvement in RJ can take on a variety of meanings. Sometimes it means inviting community volunteers to convene reparation boards (Karp & Drakulich, 2003), restorative justice conferences, or victim-offender mediations (Dhami & Joy, 2007; Gerkin, 2012; Kirby & Jacobson, 2015; Roche, 2003). In this role, they act as a neutral third party, steering the group towards reconciliation. In other instances, community is conceptualised as the 'micro-community' surrounding victims and offenders, usually close family and friends who have direct ties to the parties (McCold, 2004). Members of the micro-community are active participants in the restorative encounter. Community participation can also mean the inclusion of the 'macro-community,' often volunteers who represent 'community interests' at restorative justice conferences. While actively involved in the encounter, they are usually not part of the micro-community of the victim and offender (McCold, 2004). Finally, community involvement may take place after a restorative encounter, such as when young people and community volunteers work side by side in 'restorative community service' programmes (Bazemore & Karp, 2004; Bazemore & Stinchcomb, 2004; Wood, 2012).

Amidst this diversity of approaches to community involvement, RJ is increasingly being mainstreamed into criminal justice practices (London, 2011). For instance, the Ministry of Justice England and Wales has committed to including restorative justice process in every part of

criminal justice, from youth police cautioning to adults post sentence (Hoyle and Rosenblatt, this volume). This raises a number of normative and pragmatic tensions around the involvement of lay people into criminal justice regimes that are increasingly bureaucratized, formalized, and professionalized (Crawford, 2004; Dzur & Olsen, 2004; Garland, 2001). Despite the centrality of community involvement to RJ, there is not a great deal of scholarship on how this ideal translates into practice (Rosenblatt 2015).

This paper contributes to this debate. We seek to further clarify the theory and practice of community participation in RJ. We draw on empirical findings about community participation in a conferencing programme for adult offenders in New South Wales, Australia. In particular, we highlight some of the benefits and tensions that may arise when community participation becomes a formalized element of a mainstream restorative justice practice. Looking forward, we propose that community participation in restorative justice is likely to increase and the effectiveness of conferencing will depend on the engagement of community organisations and support services to help identify and address the specific needs of victims and offenders.

### **Community participation as a justice ritual**

There are a number of reasons to involve the community in RJ. The first is the historical and symbolic significance of lay participation in the justice system. The role of one's peers in the administration and adjudication of justice is a hallowed element of the common law. Traditionally, this has been interpreted as support for juries and lay magistrates. It is also relevant to lay participation in RJ, where direct involvement by the parties can help return the conflict to the community (Christie, 1977). Indeed, in an era where many forms of lay

participation are under attack (both jury trials and the role of the lay magistracy are significantly decreasing), community involvement RJ can serve to rescue the ideal of lay participation (Crawford & Newburn 2002; Crawford 2004).

This role is more than symbolic. Community members can improve the dynamics of the justice ritual. RJ has been singled out for its potential to create social solidarity through meaningful ritual (Maruna, 2011; Rossner, 2013). The involvement of lay people from the community can ‘open up’ encounters and provide a more fluid, emotionally intense, and legitimate process (Crawford & Newburn, 2002). The emphasis on emotion, empowerment, and deliberative democracy means that the process can escape the managerialism and corporatism of contemporary criminal justice (Crawford & Newburn, 2002). Lay people are often better placed to bring emotions into such encounters, such as through the communication of sympathy for victims, or reintegrative shaming of offenders (Dzur & Olson, 2004).

The inclusion of lay community members also adds legitimacy to the proceedings. Community members benefit in that lay participation leads to increased confidence in justice and other civil institutions (Gastil et al., 2010). For offenders and victims, the process can build social capital, solidarity and commitment to shared values (Tyler, 2006).

Finally, the involvement of the community can increase the ability of RJ to provide reintegration by bringing together people who are part of the offender’s and victim’s ‘community of care’ to provide support before, during and after a restorative justice encounter (Gerkin, 2012).

### **Theorizing community and reintegration**

It is useful to situate a discussion about RJ and community in a larger sociological framework (Bottoms, 2003; Cunneen & Hoyle, 2010). Many RJ scholars trace the current practices in a lineage of reconciliation strategies of premodern societies. While this simplistic story has been challenged (Daly, 2002), it is true that a model of justice based on reconciliation and compensation rather than punishment has dominated much of human history (Braithwaite, 2002). However, this often leads to a fetishizing of premodern society, underplaying both the non-restorative elements of such cultures (Daly, 2002) and differences between premodern and modern conceptions of community.

A result of such alignment with premodern reconciliation strategies is that RJ theory often presupposes communities build upon tight-knit relations where multi-layered networks of social capital are pre-existing. However, the reality for most people in western societies, and certainly most people who come into contact with formal criminal justice systems, are communities defined by problems of poor social cohesion and a lack of social capital (Bottoms, 2003; Putnam 2001). This presents a challenge to community-centred RJ.

One way of addressing this is by framing restorative justice as an instance of 'individual centred communitarianism' (Braithwaite, 2000). The focus is on the individuals who are at the centre of the conflict, the victim and offender. This is consistent with the loosely-knit social ordering and weak social capital common to most social relationships. However, community is built around the individuals- both the micro-community of kin and close friends, and the macro-community of volunteers and representatives. In this way, restorative justice offers an injection of social bonding into a social and legal order marked by a lack of cohesion. This may explain its popularity; it can provide a 'certain humanizing cosmetic for bureaucratic practices' (see Kamenka & Tay, 1975, cited in Bottoms 2003, p 102).

In this model, *reintegration* refers to the incorporation of the offender into a normative moral order of pro-social values and practices. This is the reintegration that reintegrative shaming practices hope to achieve (Ahmed et al., 2001; Braithwaite, 1989). Both the micro and macro community are essential. The former can provide ‘bonding social capital’ (Putman, 2000): emotional and material support, encouragement and perhaps supervision of agreed upon reparations. Macro communities can provide ‘bridging social capital’ (Putnam, 2001), both in the symbolic sense by connecting offenders to people outside their micro-community, and in a material way, by easing access to various social services. In practice, this can mean contributing ideas towards agreements and or monitoring items agreed to at a restorative conference.

### **Challenges to effective community involvement**

Challenges to effective community involvement in RJ can include: identification and recruitment of community, the potential lack of diversity and representativeness, the potential for unchecked power and vigilantism, and ‘quasi-professional’ lay people acting in a capacity as community members.

When organizing a restorative justice conference, the facilitator usually asks the offender and victim to nominate people important to them to make up their micro-community. It can be more of a challenge to identify and recruit members of the macro-community. For instance, there are difficulties in recruiting and training volunteers to act as facilitators in restorative justice programmes (Dhami & Joy 2007; Gerkin 2012). Turnover is often high, and case-flow can be low, leading to demoralised community members and a lack of enthusiasm to continue. This is related to the development of strategies of community ‘buy-in’ (Wood, 2015) where a small number of dedicated restorative justice advocates put in a large amount of effort to raise

awareness and recruit volunteers. Furthermore, attempts that seek to incorporate the ‘community’ in RJ can at times seem tokenistic, with little to no genuine involvement. For instance, as programmes are increasingly pressured to involve the community, they may designate members of a micro-community (victims and family members) as representing the macro-community in order to satisfy this demand (see Hoyle and Rosenblatt, this volume, for a further discussion of this). When members of the macro-community are recruited and eager to be involved in restorative practices, they are often characterised by a lack of ethnic and socio economic diversity and may not be representative of the community from which the offenders (and victims) are a part (Crawford & Newburn, 2002).

Concerns have also been raised about abuses of power, including vigilantism (Roche, 2003). The tyranny of the majority is an ever-present worry when the checks and balances of the modern professional justice system are weakened in favour of a de-professionalized lay-centred process (Braithwaite, 2002). Restorative justice advocates and scholars have been admonished for neglecting to consider the historical and political context which led to the modern criminal justice system in favour of an over simplified critique of professionalization (Crawford, 2002).

Finally, there is a danger that community members, as they become increasingly involved in restorative justice programmes, will become ‘quasi-professionals.’ In their research on youth justice panels in England and Wales, Crawford and Newburn (2002) found that small groups of ‘core’ volunteers were increasingly relied on. Due to their experience and enthusiasm, they began ‘to look and behave more like ‘quasi-professionals’ than ordinary lay people’ (Crawford, 2004: 700). These ‘repeat players’ (Young, 2001) can change the dynamics of the conference ritual, with the danger that community members become ‘little judges’ (Dzur, 2008). The benefit



of inviting ‘repeat players’ to a conference is that their knowledge and experience of the conference process can improve the dynamic (Bruce 2008).

To this end, we explore the strengths and challenges of individual-centred communitarianism in a restorative justice programme for adult offenders at the pre-sentence stage. We present strategies that community members use to create effective rituals, draw themselves into a micro-community, and aid in reintegration by providing bridging capital. Set against a backdrop of mainstreamed RJ, we also examine the strengths and challenges of ‘quasi-professional’ community participation.

### **Research context and methods**

The RJ model we studied provided Magistrates with the option to refer eligible adult offenders to a conference prior to sentencing in the lower courts. Typically the type of offences referred included assaults, thefts, and fraud. Similar to other conferencing programmes the main aims of the programme were to provide the offender, victim and other participants the opportunity to hear what happened, find out how people have been affected and develop a plan for the offender to repair the harm and reduce future offending. After a conference is held the offender is sentenced in the lower courts in the usual manner with the exception that a report of the conference and the outcome plan is submitted to the Magistrate for approval.

At each conference, facilitators were encouraged to invite around ten people. Commonly this included the offender and their support people, the victim and their support people, as well as others such as the arresting police officer and respected community members (RCMs). At the conference the RCM is invited to explain how they and their larger community have been affected. They are also invited by the facilitator to contribute ideas towards the outcome plan.

The study consisted of three main sources of data: stakeholder interviews, a census of administrative cases, and in-depth case studies. Overall, this involved a total of 100 interviews, analysis of administrative data for 204 conferences and observation of 34 cases.

1. Stakeholder interviews were completed with a variety of key informants, including programme managers, operational staff, police, lawyers and community representatives. In total 25 stakeholders were interviewed for this component of the study.
2. A case census of conferences held over a 6 month period (n=204) was carried out providing a statistical overview of the nature of conferences. This included administrative details relevant to the conference participants, the conference and its outcomes.
3. In-depth case studies were completed on 34 conferences. This included observation of the conference as well as follow up in-depth interviews (n=75) with participants including facilitators, offenders, victims, support people, community representatives, police and others.

This article draws on the analysis of stakeholder interviews and in-depth study of conferences. The stakeholder interviews were coded according to key themes about the role of community. Case studies were coded according to the emotional and interactional dynamics that emerged in a conference, the roles of community members, and the ways that outcomes were negotiated. We considered the contribution made by community members in developing a cohesive narrative about the incident and the impact of their participation on conference outcomes. The data reveal the ways in which community members can both help and hinder the conference process and outcomes.

### **Who represents ‘the community’?**

The programme guidelines state that RCMs are encouraged to attend conferences. However, it is not specified who RCMs are and what role they are meant to play. In practice ‘the community’ encompassed a diverse range of people with different strengths and approaches. They were sometimes leaders from local ethnic or religious communities. In some cases they were known to the parties, and in others they were not. These types of RCMs commonly acted as de facto support people, closer to members of the micro-community than macro-community. In other instances, facilitators invited a representative from a local community organization such as the Salvation Army. Often, these community members had experience working with offenders and represent the ‘macro community.’

In the early stages of planning for a conference, offenders undergo a ‘criminogenic needs assessment’. With this risk assessment tool, facilitators identified any ‘needs’ that the offender may have, such as drug and alcohol dependencies, mental health, gambling, financial planning, housing, etc. With this information, facilitators invited representatives from local agencies that might be able to assist with the offender’s specific needs. This was the largest category of RCMs in our study. For example, in a typical case where a drug dependency was identified, a RCM from a local drug rehabilitation centre could contribute to the development of an outcome agreement, advise on suggestions made, and help the offender find appropriate treatment. These types of RCMs were identified for their ability to help reintegrate offenders and potential to provide bridging capital.

A final group of community members were representatives from victims’ support and advocacy organisations. This group was complicated by the fact that most of the time members of these organisations attended conferences to represent a victim when the actual victim declined participation. Twelve out of 34 (35.3%) of conferences we observed did not have a direct victim

present. Of those, ten had a victim representative from a victims' organisation. In these instances, representatives rarely met the actual victim, and their role was to represent 'victims' views.' In practice, representatives from victims' organisations tended to blur the line between 'victims' views' and 'community views.'<sup>1</sup> People who attended as victims' representatives in one conference may attend as a RCM in another one, suggesting that there can be significant overlap between these two roles.

A majority of cases had some kind of community representation. In the case studies, 24 out of 34 (70.6%) conferences had one or more RCM present.<sup>2</sup> Twelve of these had multiple community members, with four present at one. While the programme guidelines specified that RCMs should meet with an offender prior to the conference, this happened in only six out of 24 conferences. In five of these, this was because the RCM and the offender had an ongoing relationship; for instance, they were a counselor currently treating them. In 17 out of 24 conferences, the community member had not previously met the offender, but was a representative from a service provider and had been invited so that they could link the offender into specific services to address needs identified during preparation. The rest were local religious or cultural representatives, were from victims' organisations, or were invited to 'share their story,' for example in one case the community member was someone who had driven drunk and killed someone. Facilitators were taught in their training to value community involvement and to ensure community representation at every conference. They took this guidance seriously.

Typically, for every RCM that attended, a facilitator invited four or five different people,

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<sup>1</sup> Indeed, we found that in cases where the victim representative was from a victims' advocacy organization (rather than a friend or relative of the direct victim who represented their views), the discussions around harm were much more likely to focus on 'community harm' rather than the experiences of the victim in this case. For more on this, see Rossner and Bruce, 2013.

<sup>2</sup> Our case census data (N=204) reflected slightly low numbers, with at least one community member present in approximately 60% of conferences (and two or more in nearly 20%). This data does not reflect the presence of people who were identified as 'victims representatives' at certain conferences who would often act in the capacity of RCM.

negotiating availability and appropriateness as they endeavoured to ensure the ‘right’ people are in the room for the conference.

In the next sections, we explore the ways community representatives played their roles in conferences. We focus of the ways that community members influenced the ritual dynamics and how they contributed to reintegration strategies for the offender.

### **Community participation and social solidarity**

Participants in our study often talked in the abstract about ‘community involvement,’ echoing some of the undertheorised rhetoric about community found in some RJ literature. When we probed this, it emerged that there was a belief that the participation of lay people, in the form of RCMs, turned a restorative justice meeting into a very specific form of justice ritual, one that draws on, or creates, social solidarity and social capital. One police officer, who had been involved in a few conferences, suggested to us:

I think part of the problem with crime . . . is that western society doesn't have that village mentality where everybody's watching everybody. It's very easy to be anonymous. I think the one good thing about [restorative justice] it makes everybody small again. It makes the community small again...I think if we could break our cities down into a series of small villages, people would behave themselves a hell of a lot better.

Variations of this sentiment were expressed by a number of different stakeholders. How does this happen? How does community participation, when the community members are often unknown to the offender, create such social solidarity? We explore this below.

#### *Balanced interactions*

An important element of a successful restorative justice ritual is balance (Rossner, 2013). This refers to the actual numbers of people on each ‘side’ and the requirement that multiple

perspectives are heard. One way this is achieved is by ensuring that ‘the right people are in the room,’ an instruction pervasive throughout the RJ literature. The challenge is in identifying the right people, especially when it comes to community members.

One way facilitators attempted to create balanced interactions was through the strategic choice of community representative who can also support particularly isolated offenders or victims. For instance, when reflecting on what makes a good conference, one facilitator mused:

Getting the right mix of participants there, identifying in preparation participants that are going to need extra support, or that this person's going to really overpower the whole conference, so counteract it. Thinking about the dynamics of the people that you're going to have in that room and trying to balance that by bringing in a community representative. If you've got really weak support people, trying to bring in someone from the community who can support them, or who's going to stick up for them a little bit if they can't do it themselves.

Offenders were encouraged to bring along members of their micro-community, often close friends or family. Some did not wish to have such relations at the conference. In these cases, community members sometimes played this role. In two instances, facilitators asked the RCM (a psychologist and a Salvation Army volunteer) to support the offender. In another conference, where the victim did not have any supporters, the facilitator arranged for a mental health nurse to attend. In all conferences, these participants were introduced as ‘representatives from the community’ although in practice much of their participation involved supporting the offender or victim. This suggests that the role assigned a participant prior to a conference may not accord with the role they played during a conference.

Community representatives also helped create effective rituals when they had the authority and knowledge to challenge an offender (or a victim) who was reticent, lying, or omitting elements. In one case we observed the offender was attending a conference for a theft. He was Greek-Australian and a heroin user. He had been on methadone maintenance, but, according to him, had not yet ‘been given the correct dosage.’ Another participant was a drug

counselor from a local Greek-Australian community organisation (he did not know the offender). During the conference the offender was reluctant to take responsibility for the offense and blamed his doctors for not accurately calibrating his methadone. The victims were increasingly upset as the encounter progressed. The community representative was able to use his knowledge of drug rehabilitation regimes to challenge the offender to take responsibility. The facilitator told us that she felt that the RCM was the only one in the room who could challenge the offender, and his role was key to accountability.

Community representatives also ‘open up’ interactions and elicited information in a more active way than the facilitator, who was limited by a conference script that stresses non-intervention. For instance, one facilitator describes how a RCM ensured a balanced conference through careful dealings with both the offender and the arresting police officer:

It was a community representative who asked the right questions to the offender, who got that conversation about what was happening for her and shed some light on [her issues]. He had a drug and alcohol background and a financial background, like finance counselling, which was the issues that this offender had...I also could see in this police officer, [the community rep] had turned him, he had calmed him down.

Interviewer: How?

By asking questions to elicit from the offender her issues in relation to drug and alcohol and financial issues, which then let the police officer into her world a little bit and gave him a better understanding of what was going on for her at the time. That was a defining moment for that conference because when it came to stage three, [the police officer] had just wanted her locked up, that was the only recommendation that he had talked to me about.

Conferences work most effectively as justice rituals when all participants have a shared focus on dealing with the aftermath of a particular offence, specifically focusing on eliciting remorse for the offender and allowing the victim to articulate harm (Rossner, Bruce and Meher, 2013). We found that respected community members contribute positively to the creation of such rituals

when they consciously tried to become part of the offender's (and sometimes the victim's) 'micro community' by getting to know them and their issues, supporting and challenging them when appropriate. This is a good example of Braithwaite's individual-centred communitarianism (2000). The dynamic is focused on the individual parties and their needs, and the community participants are effective if they can tap into that.

### *Threats to effective ritual*

We can point to instances where community participants contributed towards creating social solidarity and close social relations. However, in practice this was difficult to achieve. Community participation was a threat to effective ritual when RCMs deviated from the mutual focus of the rest of the group. We saw this most often with victim representatives who spoke in generalised terms about crime or their own victimisation and community representatives who spoke in generalised terms about community harm and fear of crime. When community members used these strategies, offenders and their family members disengaged from the proceedings. We observed this in the way they disregarded turn-taking norms, failed to respond adequately to questions or statements put to them, or physically withdrew from the circle. In these instances, there was little evidence of the shared focus or mood needed for a successful RJ interaction (Rossner, 2013).

Community participants were most effective when they had some kind of connection to the offender (or are able to develop one in the early stages of the conference). Yet it was often a challenge to identify such people. As a programme manager explained:

What we don't want is a generic community representative that the facilitator has conjured up, that has nothing to do with anyone else in the room, that they just invite to come to make up the numbers.' This is what I really am strongly against. The key principle here is there should be no one in the room that doesn't have some stake in what's going on, or



some involvement.

We observed instances when the participation of a RCM disrupted the ritual dynamics. In some cases the community member had attended previous conferences and said they did not need to be briefed.<sup>3</sup> In one case the community member, without knowing the facts of the case, aggressively challenged the victim. In another, they did not accept the offender's account and repeatedly criticised his attitude. The victim in the first case reported feeling re-victimised. In the other, the community member polarised the other participants and created a palpable tension. These incidents reinforce the importance of thorough preparation including identifying appropriate stakeholders but also providing an opportunity for the offender to meet with them in person prior to the conference. As one community representative explained:

[I used to] never meet the offender till we got into the [conference]. I said to them [programme staff], that's not good. It's not good for the offender because they don't know who I am....So what I recommended to them is that I have an opportunity to meet with the offender before they go into the conference. They get to know me and see whether they're comfortable.... If you go in there not knowing anything about them, then you're sort of following your tail.

At the same time, it is challenging for willing community representatives to find the opportunity within legislated timeframes to meet with offenders before the conference and offenders were under no obligation to meet with RCMs.

### **Community members and reintegration**

The macro-community of RCMs, most often strangers to the parties, can help to reintegrate offenders by providing bridging capital to the larger civil society. This occurs most

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<sup>3</sup> It was very common for both victim representatives and community representatives to be 'repeat players' (Young, 2001). Most of the representatives we interviewed had attended between five and twenty conferences. Although facilitators were encouraged not to use the same people too readily, they told us that once they had developed good working relationships with some local service providers they would regularly invite them to conferences.

often in the final stage of a conference, where participants negotiate an outcome that details steps the offender will take to repair the harm and reduce their offending. This agreement goes back to the Magistrate, who can use it to form the basis of the offender's sentence.

Facilitators were often strategic in their choice of RCMs. Based on the offender's needs assessment and their meetings with the offender, they tried to anticipate items that are likely to arise as an outcome. One facilitator said of community representatives:

If there's a potential issue that may come up, say for instance drug and alcohol counselling, or family relationship issues, than we've got a community member there to talk about their services but also their experiences as well.... they can just say 'yeah, I'm here from that service, this is what they can do, this is our waiting list, or this is our criteria,' so that when we're reality testing if we're putting down dates we're not setting the offender up to fail.

This is a delicate balance, as facilitators were prohibited from becoming proscriptive, any suggestions must come from the conference participants themselves. Navigating this in a conference was challenge for facilitators and community representatives, who are often told that they are invited because of a specific issue. As one programme manager explained:

I think sometimes what happens is the facilitator goes, 'yeah, well, you've got a drug problem.' They don't actually talk to the offender about it. They just invite their person. The person comes along and then what happens, happens. But to me that's quite inappropriate.

Crawford and Newburn (2002) note that one limitation of community participation is the likelihood of a small number of 'core volunteers' becoming 'quasi-professionals.' These 'repeat players' (Young, 2001) develop a familiarity with the programme and can undermine the lay-centredness of the process. We observed a similar phenomenon in our study. Indeed many community representatives saw their role as that of a professional service provider and were often 'repeat players' who regularly attended conferences. Their identities as community service

providers and their experience with restorative justice gave them a particular authority when negotiating outcomes. It was the norm that other participants would defer to their suggestions.

### *Quasi-professionals and reintegration*

The agreed-upon outcomes from the conference go back to the Magistrate, and are likely to make up part of an offender's sentence. Community representatives from local service providers such as drug and alcohol, mental health, and housing were seen as an essential check against disproportionate or unrealistic outcomes. For instance, in the following case, where the offender pleaded guilty to assaulting a police officer, the police officer (attending as a victim) wanted to impose a particularly harsh penalty on the offender. In an interview about this case, the facilitator explained how the RCM was able to inject some 'reality' into the discussion:

[The offender's] an alcoholic and he threw a beer at them [the police]. He was completely drunk, he'd taken tablets for his back pain and he was off his face. But one of the outcomes was that he should go for a breath test every day, along with counseling, along with going to AA meetings, along with going to see a psychiatrist ... it was the community representative who turned around and said to [the police officer] 'you're setting him up for failure here, how can you make him go for a breath test every day, that's just ridiculous' ... And the police officer's like 'I work a 10 hour shift and then I go to the gym.' and I'm thinking 'yeah, your life is together mate, we're trying to help this guy to get it together'.

Even if the participants did not have a desire for an overly-punitive outcome, their lack of experience and understanding of criminal justice and sentencing could lead to inappropriate outcomes. For instance, a facilitator described a case where the group wanted an outcome for the offender that was not suitable to his particular issue:

One person was drug-affected, he had already done eight or nine months at a live in rehabilitation centre... Obviously, he was still battling his addiction. All the participants get together. There's no appropriate drug and alcohol person present - community representative - in the room. Everybody asks him to go back into a full-time rehabilitation centre for six months. ... when he was actually assessed, they said that's not the way to

go with him. We've already seen it hasn't worked. We need to try different options. So that's a really good example of people having good - great intentions, but just not knowing - they don't know what else because they haven't got the right person there to ask the right questions.

### *Deference to community members*

While in some cases RCMs contributed to outcomes that helped to reintegrate offenders, there was also a danger that they disempowered other participants. One of the aims of the programme was to empower all parties to come up with a plan for the Magistrate to consider at sentencing. While the rhetoric of programme stressed this empowerment, we observed that some participants were reluctant to use that power. They were quick to defer to anyone else who was perceived to be an authority figure. RCMs, especially those who regularly work with offenders and are 'repeat players' can take on this status.

Repeat players were usually members victim and community organisations. Such experienced participants played a significant role as they were familiar with the process and confident in shaping the terms of the outcome agreement. In this sense, they acted as co-facilitator, helping to drive the dialogue and refine items. In other instances, they assumed a dominating role, leading the group towards their own preferred outcomes. In these instances, previous conference agreements were used as a benchmark, rather than taking into account the unique circumstances of the case at hand. We observed repeat players referring to agreement items negotiated in previous cases to assert their authority. In such instances, RCMs had too much influence.

## **Discussion**

It is a myth that RJ is a wholly lay-centred process. While a strength of the process is that it empowers lay people to take back their conflicts (Christie, 1977), the reality is that professionals have always been, and continue to be, a central component of restorative justice. This is true both ‘in the circle,’ with roles for facilitators, service providers, and police, and ‘outside the circle’ with the complex web of criminal justice professionals who support its integration into the courts. One way to support this collaboration is through the development of a ‘receptive professional culture’ (Halsey et al., 2014 citing Dignan & Marsh’s 2003) or a ‘sympathetic interpretive community’ (Chan, 2005) which is based on consultation, collaboration and partnering with external organisations and services. For example, we found that program staff established strong links with certain community organisations and services. However, a small group of ‘repeat players’ taking the role of ‘quasi-professionals’ exercised considerable influence during the decision making stage. This suggests there is a need for ongoing collaboration with the agencies and organisations that community members are drawn from to ensure that they are sympathetic to the goals and values of the program and understand the limits of their role in the process. This is akin to a practice of democratic professionalism (Olsen & Dzur 2004; Dzur 2008) where there is a clear delineation of roles and tasks for professionals and lay community members for effective collaboration. For example, role clarification during the preparation stage and rapport building between RCMs and offenders prior to the conference could overcome some of the limitations identified above.

The integration of RJ into mainstream sentencing regimes can improve the legitimacy of the process and perhaps result in better outcomes for offender and victims. On the other hand, it can also become a form of ‘corrupted benevolence’ (Levrant et al., 1999) where progressive goals morph into oppressive experiences for victims and offenders. The inclusion of lay people

and the threat of the tyranny of the majority is one route to this corruption (Braithwaite, 2002). This is least likely to occur when a community representative actively tries to become a part of the offender's micro-community, getting to know them and developing a rapport. However, during decision-making their participation is most useful when they step back into the macro-community, guiding the participants through outcomes that can reintegrate offenders. This is the challenge of individual-centred communitarianism: community representatives need to stay focused on the individual parties who are most affected while still representing community interests and providing necessary bridging capital.

There are ongoing tensions in the restorative justice movement about how 'de-professionalized' the process should be (Dzur, 2008). Writers like Crawford and Newburn (2002) and Hoyle and Rosenblatt (this volume) have critiqued the role of professionalized community members. We suggest that 'quasi-professionals' acting in the capacity of community representatives can help offender reintegration in unique ways. As restorative justice is increasingly mainstreamed into courts at the presentencing stage, 'quasi-professionals' play an important role in easing this transition. Their knowledge and experience can be an asset, helping to create effective rituals and strategies for reintegration. At the same time, the tendency towards the professionalization of community participation has its shortcomings, such as when 'repeat players' disempower other stakeholders.

These findings help to further theorise the role of community in restorative justice, particularly as it becomes a mainstream element of the justice process. We find support for Bottoms' (2003) contention that RJ can provide instances of social bonding in a legal and social order marked by weak bonds. This seems to be best exemplified in instances where community

members make a concerted effort to develop bonds and social solidarity with the offender and victim, essentially becoming part of their micro community. At the same time, community members are most effective at reintegrating an offender if they draw on their strengths in their position as ‘quasi-professional’ macro-community, using their experience and knowledge to prevent imbalance, domination, and identify appropriate and realistic outcomes. This illuminates both the strength and challenge of individual-centred communitarianism: the community needs to stay focused on the individual parties who are most affected while still representing community interests and providing necessary bridging capital.

### **Conclusion and Ways Forward**

Emotionally intelligent justice and therapeutic approaches to sentencing are increasingly considered to be a legitimate aim of criminal justice (King et al., 2014). The current political and economic climate presents an opportunity for RJ to further evolve as a mainstream option. Representatives from the community are likely to play an increasingly larger role. However, it is vital to articulate both the strengths and limitations of community involvement. At best, micro- and macro- communities work together to create social solidarity and bridging capital to reintegrate offenders, even when community members are ‘quasi-professional’ or ‘repeat players.’ At worst, community members are seen as illegitimate stakeholders who interfere with effective restorative rituals. There is a danger that decisions are driven by ‘repeat players’ who disempower victims, offenders, and micro-communities.

The future of restorative justice is likely to be one that requires collaboration and cooperation between criminal justice professionals, service providers, and lay people. Hoyle and Rosenblatt (this volume) present a rather pessimistic picture of the future of community

participation in RJ, arguing that little has been learned in decades of research on this topic.

While we are sympathetic towards this assessment, we contend that there is room for optimism as RJ initiatives continue to develop into a ‘receptive professional culture’ (Halsey et al 2014) or ‘sympathetic interpretive community’ (Chan 2005). This is best achieved when facilitators work with community members to prepare for effective rituals. Training can be extended to ‘quasi-professionals’ emphasizing restorative justice values, including non-domination, empowerment, and respect.

This study focused on restorative justice for adults at the pre-sentence stage. However, as restorative justice enters the mainstream, the process is likely to be offered at all stages of the justice system, for different types of offences, offenders, and victims. At the best of times, effective restorative justice involves a delicate balance between resources, training, preparation, and luck (Rossner, 2013). The growth of restorative justice presents a threat to this balance. There is a danger that the process becomes ‘corrupted,’ – watered down, under-resourced, drifting away from its core values. Effective community participation can provide continuity and legitimacy across restorative approaches as they evolve in different areas of criminal justice. In a criminal justice context that is increasingly corporatised and bureaucratised (Garland, 2001), community (and victim) participation is at the core of what distinguishes RJ from other approaches. Community participation has the potential to provide bonding social capital in the form of meaningful justice rituals and bridging social capital in the form of an effective reintegrative response, even when community members are ‘quasi-professionals.’ Rather than lament the corruption of restorative justice, we suggest that, when properly trained and committed to restorative values, community members, including ‘quasi-professionals’ and



‘repeat players’ can ensure the effective implementation of restorative justice across all areas of criminal justice.

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