

4 Lepers or learners Sarah Curtis

6 Walk on by? Mark Levine

8 Working out of trouble Samantha Sherratt

TURNING PRISONS INSIDE-OUT

David Faulkner considers how ideas of citizenship and community might be applied to the treatment of offenders and in particular to the management of prisons



John Donne wrote in 1624 “No man is an Island, entire of itself”, and “Any man’s death diminishes me, because I am involved in Mankind; and therefore never send to know for whom the bell tolls; it tolls for thee”.¹ During the Second World War, Dietrich Bonhoeffer wrote, “other people constitute both the origins and limits of my responsibility”.² The relational thinking which the Relationships Foundation started to apply to criminal justice ten years ago is in the same spirit. More recently, the Archbishop of Canterbury, Dr. George Carey, quoted John Donne in his sermon in Trinity Church in New York on 11 September 2002, and the “interconnectedness” of mankind is one of the themes in Archbishop Rowan Williams’ book *Lost Icons*.³ Writing in *The Times* on 12 September 2002, Dr. Williams referred to the need for “the practices of sound community life to become second nature to us” and “to see the sensation of stability as a gift that is given to help us forward, not as a possession or acquisition”.⁴

Ideas and insights such as these – perhaps sharpened by the events of 11 September 2001 – are now beginning to inform the country’s political, economic and social life, and sometimes the lives of its individual citizens. This article considers how they might be applied in reducing and responding to crime, and especially to the experience of imprisonment.

INSPIRATIONAL

One of the discoveries of the last 20 years, unwelcome though it has been to some government ministers, has been the fact that the criminal justice process can by itself have only a limited effect on the general level of crime, and can usually do very little to repair the harm which crime has caused (whether to the victim or to the offender and his or her family). To do that requires action to be taken that is outside the formal or traditional criminal justice process, and often beyond the scope and capacity of the statutory criminal justice services. It calls for action by communities and between individuals as citizens. Victim Support is a conspicuous example, and others are being developed in the context of restorative justice. The problem for government and for the institutions and agencies of the state is that the action which is needed is not usually amenable to the familiar instruments of government policy or

public management – legislation, circulars, directories, targets, performance indicators, contracts, systems of inspection and audit. Nor can they necessarily be achieved by designing models, inviting tenders and spreading best practice. Something more organic and dynamic – and more inspirational – is needed as well.

In this respect, the notion of citizenship may be of some value, notwithstanding the fact that it has not, for the most part, had any powerful influence on the political or social development of Great Britain.

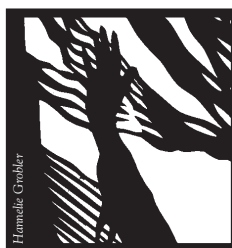
British people have been “subjects” rather than citizens; and citizenship has been seen more as a matter of status under immigration and nationality legislation, or as a test for a person’s national identity, than as a set of rights and responsibilities to be exercised by the population as a whole. Not surprisingly, there is no clear or convenient statement of what treating prisoners as citizens should actually involve as matters of theory or practice.

Even so, the situation has changed significantly over the last 30 years. The change has come about partly as a result of changing attitudes in the Prison Service itself, where acts of humiliation – for example in reception, or at adjudications – which were commonplace a generation ago would no longer be tolerated today. It has also been the result of a series of judgments in the domestic courts and the European Court of Justice. This process of ‘turning prisons inside-out’ is likely to continue, although perhaps not at a rapid pace, as a result of the incorporation of the European Convention on Human Rights into domestic law and through the Human Rights Act 1998.

SOUND RELATIONSHIPS

But human rights are only one aspect of turning prisons ‘inside-out’. Citizens also have duties and responsibilities – obviously to obey the law, but also to play a part in society, to support themselves and their dependants, to show consideration for others, to be a good neighbour, to have some concern for those

“The criminal justice process can by itself have only a limited effect on the general level of crime, and can usually do very little to repair the harm which crime has caused.”



Hannelie Grobler

Published by the
Relationships Foundation

Registered Charity No. 327610

3 Hooper Street
Cambridge CB1 2NZ
Tel: 01223 566333
Fax: 01223 566359
Email: r.f@clara.net

Enquiries to Dr Jonathan Burnside

Production by
Stephen Lown Graphic Designer

Illustrations by Hannelie Grobler

Continued on Page 2

who are vulnerable or disadvantaged, and to support the institutions and legitimate authority of the state, but also to hold those institutions to account. These are responsibilities from which prisoners are at present largely absolved – sometimes necessarily, but often not. Stephen Pryor's article in Issue 15 of the *Relational Justice Bulletin* ("The Responsible Prisoner") notes the extent to which imprisonment takes away responsibility from prisoners, with destructive consequences.⁵ He might equally have said that imprisonment removes the rights and responsibilities or citizenship of the prisoner's status and dignity as a citizen. He discussed the choices which prisoners are or are not able to make, the opportunities which they are or are not able to enjoy, the procedures for risk

"Treating prisoners as citizens and normalising conditions in prison are effective ways of turning prisons inside-out. But of at least equal importance is society's attitude towards prisoners when they are released."

assessment and risk management, and the incentive – which applies to staff as well as prisoners – to play safe and "keep your head down" (c.f. Rowan Williams' comment on the "sensation of stability" quoted earlier). He went on to describe the processes of "turning prisoners into people" and "rebuilding people"

and the practical benefits these processes can provide in terms of re-settlement and the reduction of re-offending.

From a similar background as a former prison governor, but from a different perspective, Tim Newell has set out his ideas on sound relationships and professional and political responsibility, which link directly to the concept of community justice.⁶ His application of the

ideas of restorative and community justice to the management of prisons and to relationships within them, in conjunction with the Thames Valley Partnership and the International Centre for Prison Studies, is a splendid example of 'turning prisons inside-out'. Another is the International Centre's Restorative Prison Project at Albert Park in Middlesbrough. This was carried out in conjunction with three prisons, Middlesbrough Council, the Northern Rock Foundation, the Inside Out Trust and the Probation Service.⁷ The Prison Reform Trust has examined other ways in which prisons try, not always successfully, to give prisoners the opportunity to be active citizens, through socially useful work within or outside their establishments.⁸ The central principle should be that prisons are part of society and not set apart from it; that they exist for the benefit of society as a whole and should contribute actively to its health and well-being; that prisoners deserve its compassion and staff should receive its respect.

SYMBOLIC

Several indicators can be found of the extent to which prison institutions are being turned 'inside-out'. One is the degree to which prisoners are able to make choices for the way in which they spend their time in prison, and the means by which they are able to maintain contact with their families and accept responsibility towards them. Another is their ability to retain their personal identity, and to express it, for example through the possessions they are allowed to keep and the clothes they are allowed to wear. A third is the ways in which prisoners and staff talk to each other, their use of names and tones of voice, and the respect (or lack of it) which they show to one another – and simply their ability to

communicate at more than a superficial level⁹ – in the course of ordinary day-to-day contact. Other indicators could include the extent to which disputes can be resolved by restorative procedures rather than traditional, adversarial forms of discipline; or the extent to which prisoners are allowed to have some stake in the institution in which they are detained, for

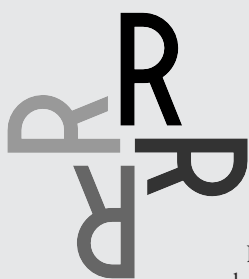
example through some form of consultative process.

One obvious and symbolically important example is a prisoner's right to vote in national elections. Great Britain is in a minority among European countries in not allowing prisoners to vote, and Prison Service managers have been reported as being in favour and seeing no practical difficulty.¹⁰

There are, of course, corresponding issues for staff. They include the quality of the relationship between staff and management, the kinds of professional practice which are respected and rewarded, questions of recruitment and training, and even the style of, and the need for, staff uniform (e.g. wearing less formal uniform in juvenile establishments).

DEPRIVED

Treating prisoners as citizens and normalising conditions in prison are effective ways of turning prisons inside-out. Of at least equal importance is society's attitude towards prisoners when they are released – and towards offenders generally. The issue here has two main aspects. One is the extent to which it is a responsibility of the state, of civil society, or of individual citizens, to help the reform and resettlement of those citizens who are or have been prisoners – either as a matter of self-protection against the possibility of re-offending, or more positively as a matter of civic duty. The other is the extent to which the



Views expressed are those of the authors and do not necessarily reflect the policies of the Relationships Foundation.

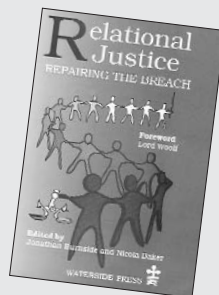
WHO WE ARE

The *Relational Justice Bulletin* is a quarterly publication by the **Relationships Foundation**, a Cambridge-based charity, as part of its **Relational Justice** initiative.

Relational Justice is a fresh approach to crime and punishment.

Rather than looking at crime solely as an offence against the state, it sees it as a breakdown of relationships between offenders, victims, families and the community.

The concept was developed by the **Relationships Foundation** in the early nineties. It first gained public exposure with the publication of the book *'Relational Justice: Repairing the Breach'* (Waterside Press, 1994), which was welcomed by Lord Woolf as 'a radical new approach which anyone with any concern about the criminal justice system needs to be aware'. Since then, it has been shown to have wide implications for policy and practice.



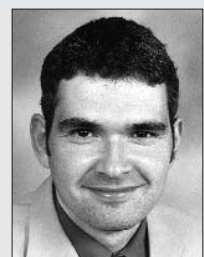
The *Relational Justice Bulletin* has been launched as a platform for discussion of the ideas at the heart of **Relational Justice** as well as exchange of good practice across the system.

You are warmly invited to join the growing number of professionals and practitioners who are already receiving it (see subscription form on the back page) and to contribute your own ideas and experience.

The **Relationships Foundation** is a registered charity dedicated to developing new 'relationships-based' approaches to social, economic and political issues.

Your help would be welcome in publicising the Relational Justice Bulletin. Free A5 leaflets are available for your use. You can request copies on the form on the back page.

Dr Jonathan Burnside is
Editor of the Relational
Justice Bulletin



fact of imprisonment, or a criminal conviction, should in effect disqualify a person from a wide range of what could be seen as the normal expectations of citizenship – most obviously in employment and housing, but also for example in access to insurance, financial services and compensation for a criminal injury.

The first aspect came into prominence with the publication of the Social Exclusion Unit's (SEU) report *Reducing Re-Offending by Ex-Prisoners*¹¹ and of the Government White Paper *Justice for All*.¹² More than two-thirds of prisoners are unemployed before they go to prison, and a third of those with jobs then lose them. A third of prisoners have no permanent accommodation before their sentence, and another third lose their homes as a result of imprisonment. Former prisoners who get jobs are a third to a half less likely to re-offend; those without homes are between one and a half and twice as likely to re-offend.

'GOING STRAIGHT CONTRACT'

There are good instrumental reasons for correcting this situation, in the sense that the public will be protected because prisoners will be less likely to re-offend. But there is also an argument of principle that the effect of imprisonment should not be to degrade a person's status as a citizen in respect of such critical issues as employment and housing. The SEU's report recommended a "going straight contract", administered jointly by the relevant agencies within a framework of effective case-management; special attention to areas of greatest need such as financial support and housing; and a longer-term national rehabilitation strategy. The White Paper picks up these recommendations, with proposals to pilot the "going straight contract" for 18-20 year olds, and a national rehabilitation strategy linked to a review of reception and release procedures. Other proposals are to modernise the prison estate with new building and closure of unsuitable establishments; to extend the remit of multi-agency protection panels and include independent lay members and to carry out a major independent review of the correctional services.

All this is welcome, provided that the Government's intentions are not frustrated by continued pressures of prison overcrowding or lack of funds. But this aspect of 'turning prisons inside-out' will only succeed if society as a whole, and the communities within it, are prepared to accept their responsibility as citizens towards fellow citizens who go to prison, and for the services and institutions which act on society's behalf.

REJECTED

The second aspect arises from the review of the Rehabilitation of Offenders Act 1974, the more or less simultaneous view of the introduction of "basic disclosure", and the potential conflict between them. The report of the review of the 1974 Act¹³ recommends extending rather than restricting the protection of the Act by reducing

the periods within which convictions can become "spent", or otherwise extending the circumstances in which offences are not subject to disclosure. Basic disclosure will, however, enable employers to require prospective employees to supply a certificate showing any significant and "unspent" criminal convictions. The effect may be to expose former offenders to more enquiries about their records and therefore to a greater risk of being rejected.

REWARDING

The idea of 'turning prisons inside out' challenges the Prison Service and the Youth Justice Board to manage their institutions in ways which are outward rather than inward looking, and which place the needs, hopes and expectations of its prisoners, of its staff and ultimately of society above the convenience of the Service and of its institutions themselves. The process is likely to be impeded by overcrowding, the imposition of competing demands through sometimes inconsistent

performance indicators; and where there exists a culture of blame and the avoidance of risk. Progress is more likely where there is a stronger impetus, led by government but with support and some active engagement by the public – or by citizens – more generally. The White Paper *Justice for All* gives the kind of opportunity that only occurs

once in ten years or even less often. The challenge is not only to treat prisoners as citizens and to enable or require them to live and behave as citizens: it is also for citizens more generally to accept that they have some responsibility of their own for promoting a healthy or peaceful society, (for preventing crime and for repairing the damage which it causes), and for the rehabilitation of those who commit it.

The White Paper includes important proposals for engaging citizens in more ways and on a larger scale than is done at present. Chapter 6 makes proposals which would involve citizens and communities more actively in preventing re-offending and rehabilitating offenders, and Chapter 7 does so in relation to the prevention of crime, and the operation of the criminal justice process before sentencing including developments in restorative justice. The proposals to modernise the prison estate, and to carry out a major independent review of the correctional services, provide an opportunity to extend that approach to prisons themselves. The Institute for Public Policy Research has made further proposals in the same spirit.¹⁴

Such an approach would challenge communities, and society as a whole, to feel some sense of ownership for their prisons, and some responsibility for their prisoners, as they often do for their schools and hospitals. They would no longer see prisons as a means by which that responsibility can be avoided. To achieve

"Prisons are not a means by which society's responsibility for offenders can be avoided."

"Public involvement should be at the heart of the government's criminal justice and public reform agendas."



Hannelie Grobler

that sense of ownership and responsibility will demand, but may also create, a stronger determination, on the part of government and the courts, to keep the prison population within the capacity of the system. It may also require changes in the structure and accountability of the Prison Service and its establishment so that they can be more locally based and more locally focused.

The major independent review promised in the White Paper provides a rare opportunity to explore the issues discussed in this article, and the corresponding issues for the National Probation Service, and to act on the conclusions. The rewards for society, for the Prison Service and for the government which has the courage to attempt it, might be greater than has so far been imagined.

David Faulkner CB is Senior Research Associate at Oxford University's Centre for Criminological Research. He is the author of *Crime, State and Citizen: A Field Full of Folk* published in 2001 by Waterside Press.

1 John Donne. 1624. *Meditation XVII*.

2 Dietrich Bonhoeffer. 1969. *Letters and Papers from Prison*. London: SCM Press.

3 Archbishop Rowan Williams. 2000. *Lost Icons: Reflections on Cultural Bereavement*. London: T and T Clark.

4 Archbishop Rowan Williams. 2002. 'Forget Yourself and Find your Soul' in *The Times*, 12 September 2002.

5 Stephen Pryor, 2002, "The Responsible Prisoner" in RJB 15. See also Pryor, 2001, *The Responsible Prisoner: An Exploration of the Extent to which Imprisonment Removes Responsibility Unnecessarily and an Invitation to Change*. London: Home Office.

6 Tim Newell. 2000. *Forgiving Justice*. London: Quaker Home Service.

7 International Centre for Prison Studies. 2002. *Albert Park, Middlesbrough: An Approach to Restorative Justice*. London: International Centre for Prison Studies.

8 Finola Farrant and Joe Levenson, 2002, *Barred Citizens*, London, Prison Reform Trust.

9 A failure of communication between young prisoners and staff, and its tragic consequences, was vividly portrayed in *Out of Control*, shown on BBC on 15 September 2002.

10 Prison Reform Trust. 2001. *Barred from Voting*. London: Prison Reform Trust.

11 Social Exclusion Unit, 2002, *Reducing Re-Offending by Ex-prisoners*, London, Office of the Deputy Prime Minister.

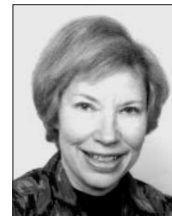
12 Home Office. 2002. *Justice for All*. Cm 5563. London: HM Stationery Office.

13 Home Office. 2002. *Breaking the Cycle: A Report of the Review of the Rehabilitation of Offenders Act*. London: Home Office.

14 Clare Sparks and Sarah Spencer. 2002. *Them and Us: The Public, Offenders and the Criminal Justice System*. London: Institute for Public Policy Research.

LEPERS OR LEARNERS

Sarah Curtis suggests ways of giving youth court magistrates confidence in non-custodial options for young offenders



Young offenders today suffer from variations in sentencing that depend, not on the seriousness of their offences, but on where they happen to live. Between 2000 and 2001, the ratio of custodial to community sentences given to children and young people under the age of 18 ranged from 1:3 to 1:26 in different parts of England and Wales.¹ The Annual Review of the Youth Justice Board (YJB) does not say how many of the custodial sentences were given by Crown Courts (which try the most serious offences) but the same 'sentencing culture' may affect all courts in an area. The Youth Justice Board, under the leadership of its Chairman, Lord Warner, is "committed to reducing this justice by geography."² But what affects youth court magistrates' attitudes to custody and community sentences?

According to the YJB Review, the number of young people sentenced to and remanded in custody increased following the judgment of the Lord Chief Justice, Lord Woolf, on mobile phone robbery in January 2002, and recent street-crime initiatives. This is not surprising. Whilst youth court magistrates try to be scrupulous in their examination of individual cases, they are nonetheless encouraged from the start of their training to be guided on precedents for sentencing by the judiciary and their legally trained clerks. In addition, as media consumers and members of the public themselves, they are bound to be influenced by the widespread feeling that crime is increasing, especially by young people. Although the YJB is sceptical about whether youth crime is spiralling out of control,³ that expert view has not captured the imagination of the majority of the population, or magistrates.

CONFLICTING DUTIES

Faced with a sixteen-year-old with a record of persistent offending who threatened to stab a punier youth unless he handed over a phone or some cash, most magistrates start by looking at the aggravating and mitigating circumstances of the crime and the offender's background. Information and conclusions about the level of risk that the offender presents are derived from a summary of an ASSET form completed with the offender by a Youth Offender Team (YOT) member. It is argued that it would take too long in our busy youth courts for magistrates to read all twelve pages of the ASSET document (which covers family circumstances, education, mental and physical health, attitude to the crime as well as any history of offending). It is also said that it is the job of professionals to interpret the evidence for magistrates, but such interpretation takes considerable analytic and communication

skills to summarise in the space available on a court report. Be that as it may, the magistrates will frequently see from the court report that Martin and Kelvin (and increasingly now Marlene and Jane) did not attend school, have neither a job nor training and spend most of the day and night hanging round street corners, smoking the odd reefer. As for their parents, most care about their children's lawlessness but it is years since most have been able to exercise any control over them.

"Magistrates look for something that will immediately give the public a respite, however reluctant most of them are to send young people to penal institutions."

The fear of magistrates has always been that without full-time occupation a young person of limited accomplishment and with limited support at home is bound to re-offend. They may recall their duty under the Children and Young Persons Act 1933 to have regard to the welfare of the child but they may concentrate on their other duty, to protect the public.

They may also interpret the aim of the Crime and Disorder Act 1998 "to prevent further offending" in the short term rather than long term. Consequently, whether considering a bail application or a recommendation for a community penalty, magistrates look for security. They seek something that will immediately give the public a respite, however reluctant most of them are to send young people to penal institutions.

INTENSIVE SUPERVISION

The good news is that the introduction of ISSPs (Intensive Supervision and Surveillance Programmes) should for the future give magistrates the confidence they need that serious young offenders will be occupied and monitored for all their time on remand or under a community penalty. ISSPs already operate in pilot areas and are scheduled to go nationwide in the coming months. Instead of the old supervision orders, which usually offered only a few hours education, training or attendance at offending behaviour programmes each week, there is now a guarantee of at least 25 hours of specific training for the first three months of the programme. In particular, where young people are accommodated by the local authority, the introduction of monitored curfews should reassure magistrates sceptical of the degree of control exercised by children's homes or what happens to young people housed in independent, unsupervised establishments. Home Office research shows that even without the ISSPs, other new pro-active community disposals like reparation orders have reduced the predicted rate of reconviction by nearly 15 per cent.⁴

"The evidence so far confirms that the most effective response to offending by young people comes with the help of the community."

However, it is over-optimistic to think that introducing intensive supervision for serious offenders will succeed in weaning all youth court magistrates from preferring custodial disposals. First, the future is dependent on sustained funding for community schemes from the government through the YJB. Great skill and much time are needed both to engage with persistent young offenders and to draw members of the public, including victims, into the reformative process. The evidence so far confirms that the most effective response to offending by young people comes with the help of the community, so that the young person can be included in the mainstream. Yet the funding to set up schemes from central funds, including mentoring projects to prevent vulnerable younger children from slipping into delinquency, are usually time-limited. Few local authorities are likely to take up the tab for the increased workload if central funding ends, even when there is evidence of savings through the gradual diminution of youth crime.

WHATEVER HAPPENED TO MARLENE?

In addition, there may be a problem convincing some magistrates that community disposals are effective, especially in areas where custody has been the usual disposal for all serious crimes, including burglary. The NACRO report to the YJB, *Factors Associated with Differential Rates of Youth Justice Sentencing*,⁵ showed that magistrates in high custody areas were less satisfied with the range and level of youth justice services than their counterparts in low custody areas. The dissatisfaction with the services they offered was echoed by YOT managers in high custody areas, which may in turn have influenced the

conclusions in their court reports.

In considering this problem, the first question to be asked is; how much feedback do magistrates receive about the effectiveness of their disposals? In human terms, do they ever know what happened to Martin, Kelvin, Terry, Marlene or Jane after they sent them either to a Young Offender Institution or

to the local YOT scheme? One of the greatest frustrations for Youth Court magistrates is that they may see some of the failures of their disposals returned to the court for breaching orders but they rarely learn about the successes. Nor are there national comparative research programmes that follow the histories of a cohort of young offenders in the way the health and social development of cohorts of young people have been tracked.

That said, it is encouraging that the monitoring of young people on orders is now

an integral part of the youth justice system. YOTs are required to send regular returns to the YJB on the progress of court orders. This is the obvious way to build the confidence of magistrates who doubt the efficacy of community orders. The mechanism to do so is already there in the court meetings which every area is encouraged to hold. Magistrates have heavy loads for volunteers and attendance at court meetings is not as universal as it should be. But the main challenge is to make sure that the content of the meetings gives all court users the information that will enable them to improve their practice. As long ago as the late 1980s detailed reporting back to courts on specific cases was accomplished in a few areas. But in most areas, even those where there is a longstanding tradition of multidisciplinary court meetings, the presentation of statistics is haphazard.

BUILDING CONFIDENCE IN COMMUNITY ORDERS

The (understandable) excuse of former days – that no one in youth justice had the time to prepare statistics in any more detail than the type of disposals made – is no longer valid. For example, YOTs in Kensington and Chelsea and in Westminster find the provision of information so necessary to fulfil their obligations to the YJB, and to make all their work effective, that they now employ an information worker. Some magistrates, clerks and youth justice workers object to the release of information about specific cases on grounds of confidentiality. But the case for confidentiality has always been weak insofar as all those who attend court meetings are bound not to disclose the proceedings to unauthorised people. Others are anxious about seeing information about a young person who may subsequently appear before them. But this is easily overcome by changing the names of defendants. Nothing could boost the confidence of magistrates more than the knowledge that a majority of those they sentence to community programmes complete the course and begin to change their behaviour. It is one thing to know the damaging effects of custody but it is another to know the beneficial effects of community penalties.

The Youth Court Demonstration Project in two areas between 1998 and 2000 showed that magistrates and court users found increased feedback useful. It would be helpful if the YJB would now develop a pro-forma for feedback on disposals to court meetings, based on the feedback YOTs already produce for it.

BOOSTING LOCAL KNOWLEDGE

As well as getting feedback about the effectiveness of their disposals, youth court magistrates in high custody areas also need to be better informed about the level of community resources in their area. How much, at present, do these magistrates really know? The training of magistrates has improved enormously in the last decade. Training in the law is given to a standard

that would amaze previous generations of justices who relied almost totally on their clerks to identify the extent of their powers. What is missing, however, is a similar emphasis on the need for youth court magistrates to be familiar with local resources for children and young people.

All magistrates have to visit a prison and some community projects as part of their initial training. One of the qualifications for being a magistrate is knowledge of the local community. But how many youth court magistrates have recently visited their nearest Pupil Referral Centre, have seen all the local children's homes or have met specialist foster parents in their area who take difficult young people when on remand or under supervision? Such visits or meetings with the workers involved should be a continuing requirement for those who sit in the Youth Court, including District Judges and also judges who deal with young offenders in the Crown Court.

"It is one thing to know the damaging effects of custody but it is another to know the beneficial effects of community penalties."

SPECIALIST MAGISTRATES

My final suggestion is at last on the public agenda: it is for youth court magistrates to be a specialist cadre. The White Paper *Justice for All*, issued in July 2002, proposes that the system

of elected specialist panels be replaced by "personal authorisation".⁶ Under this reform magistrates would be selected and trained for youth court work rather than wait to be elected to their panels.

Strange to tell, a similar if more fundamental system used to operate in Inner London. Until the work of juvenile panels was divided between Youth and Family Courts, appointments to the Inner London Juvenile Panel were made directly by the Lord Chancellor on the recommendation of his Advisory Committee which interviewed candidates for the magistracy. Members of the juvenile panel were not obliged to sit in the adult court as well. There are still some youth court

magistrates in Inner London who were appointed in this way and who have never sat in an adult court. They were selected for their knowledge of children and young people, the factors affecting

child and adolescent development and the availability in the community of remedial programmes, as well as for their judicial qualities. Most also sit in the Family Court where the other side of offending children is seen. The proposal in the White Paper does not suggest that it would be possible for magistrates to sit only in Youth and Family Courts but it does offer the kind

of specialisation which could diminish justice by geography for young offenders and in the long term protect the public better.

Sarah Curtis was a Youth and Family Court magistrate in Inner London from 1978 to 2001, initially appointed by the Lord Chancellor to the Inner London Juvenile Panel. A former Times journalist and Editor of the BAAF Journal Adoption & Fostering, she has written extensively on juvenile offending and related topics. Her most recent book was Children Who Break the Law (1999, Waterside Press).

1 Annual Review of the Youth Justice Board (2001-2), presented to Parliament by the Home Secretary, p. 19.

2 Ibid.

3 Op cit. Chairman's statement.

4 Op cit., p. 6.

5 Youth Justice Board, Research Notes, September 2000.

6 Paragraph 4.4.



Hamid Gholer

WALK ON BY?

Mark Levine explains how the willingness of bystanders to intervene in violent incidents depends on the nature of their relationship with victims and perpetrators



Nearly forty years ago, an iconic event occurred – the rape and murder of Kitty Genovese in New York. She was assaulted in the early hours of the morning just outside her apartment building in an attack that lasted over half an hour. Whilst the attack was horrific and brutal, what shocked the public even more was that 38 people were witnesses, watching from behind the windows of their own apartments. Not one of them intervened to save her life. In more recent times, the James Bulger murder trial (concerning an English toddler who was murdered by two older children) also (coincidentally) produced 38 witnesses. All saw him being led away against his will but none intervened successfully to save his life. This article explores the factors that can make people willing to intervene on behalf of others, including victims of crime. In particular we will show that the nature of the relationships between bystander and victim, bystander and fellow bystander, and between bystander and perpetrator, is crucial. To this extent, a relational analysis may assist in formulating successful violence reduction strategies.

“New research explores the relationships which exist between all those present at a violent episode.”

LESSONS FROM THE HOLOCAUST

Clearly, the reactions of people who witness a violent act – whether they actively support it, actively oppose it, or passively observe it – play a major part in whether violence occurs and reoccurs. Traditional research on violence concentrates on the characteristics of the perpetrator, the characteristics of the victim, or on the nature of the relationship between them. However, to be able to tackle violence effectively we need to know not only why some people commit violent acts but also why other people do nothing to stop them. In most cases violence involves a third party who witnesses the act itself or who witnesses its consequences. We can see these ‘bystanders’ in the CCTV footage of street violence or hear them in the ‘suspicions’ of friends and neighbours after the discovery of domestic or child abuse. Bystanders have the capacity to shape the trajectory of almost every violent incident. This is not just in the obvious sense of intervening or not intervening. By their action or inaction bystanders communicate both to the victim and the aggressor tacit approval or disapproval of what is taking place. This is particularly true of violence that occurs in the public domain.

The power and potential of bystanders is revealed most clearly in the work of Holocaust historians who point out that the road to the concentration camp was littered with opportunities for resistance. It is said that things might have been very different if ordinary

Germans had protested loudly about what they saw going on around them, rather than remaining silent. Perhaps one of the best-known acts of individual bystander intervention described in this literature is the story of Oscar Schindler. But there are many other non-Jewish bystanders whose actions are commemorated in the Avenue of the Righteous Among the Nations at Yad Vashem, the Israeli Holocaust Memorial. Added to these acts of individual intervention are instances when whole communities joined together to rescue Jews. For example, the little French village of Le Chambon managed to resist the efforts of the Vichy authorities to induce them to participate in the rounding up of Jews, saving thousands of lives in the process.

These histories of the Holocaust teach us that, when faced with difficult situations and the potential for personal cost, the temptation to turn away is strong. However, acts of bystander intervention against violence at an individual, group and societal level are also possible. If we are to tackle the tendency to passivity and promote the likelihood of intervention, we need to know more about why bystanders behave in the ways that they do.

WHY WE DON’T INTERVENE

Two social psychologists, John Darley and Bibb Latané, began to explore the reasons for bystanders’ failure to intervene. In a series of carefully choreographed field experiments (involving situations where smoke poured into rooms or ‘victims’ fell off ladders or had epileptic seizures) they discovered what they called ‘the bystander effect’. This was the counterintuitive finding that the more witnesses there are to an event, the less likely each individual is to offer help. Victims are more likely to receive help from a bystander if that person is on their own rather than in a group. They suggest that this is the result of things like ‘diffusion of responsibility’ or the failure to recognise the true significance of an event – what psychologists call ‘pluralistic ignorance’. But whilst the bystander effect is one of the most established and replicated findings in social psychology, psychologists Latané and Nida observe that this research has not contributed to the development of practical strategies for increasing bystander intervention. “None of us has been able to mobilise the increasing store of social psychological understanding accumulated over the last decade to ensure that future Kitty Genoveses will receive help”.¹

“When the ‘victim’ wore a Manchester United shirt, all the Manchester United supporters intervened to help; when he wore a Liverpool shirt, almost nobody intervened.”

This pessimism led to a gradual decline in research on bystander intervention. However, prompted by recent developments in social psychological theories of group processes, new work has begun to emerge. Rather than focussing simply on whether there are one or many bystanders to a violent event, this new research seeks to explore the relationships that exist between all those present at a violent episode. For example, my study of the evidence given by the 38 witnesses at the trial of Thompson and Venables for the murder of James Bulger shows that bystanders’ behaviour was not governed by ‘diffusion of responsibility’ or ‘pluralistic ignorance’.² All the witnesses said that they were aware of James’ distress, and did not suggest that their failure to act was because they thought other bystanders would do it. Rather, witnesses said they did not intervene because they assumed, or were told explicitly by Thompson and Venables, that the three boys were brothers. By invoking the category of ‘the family’, the three boys became a separate group. This was a group that non-family adults (particularly men) could not easily become involved with.

KEEPING OUTSIDERS OUT

This notion of ‘the family’ as a privatised space is a particularly powerful one, especially given modern scares concerning ‘predatory paedophiles’. The irony of course is that children are in far more danger from those who can be identified as family members than they are from a stranger attack. However, what undermined the ability of the bystanders in the Bulger case to intervene successfully was the dominance of a particular kind of social relationship (the privatised family) over other alternative social relationships. If those witnesses had conceived of their relationship with the three boys as being one where all adults (family members or not) had responsibility for (and rights to ensure) the welfare of all children (family members or not) then they may have been more likely to intervene successfully to save James Bulger’s life.

Once we begin to explore the relationships between bystanders, victims and perpetrators in more detail, then a number of issues and challenges emerge. Firstly, there is good evidence to suppose that bystanders are more likely to intervene to help a victim when the *victim* is believed to belong to the same ‘group’ as the bystander. In a recent study, we looked at the willingness of football fans to help others in distress. As part of our study, we employed an actor to run past a group of Manchester United supporters and then fall, clutching his leg in agony. When the actor wore a Manchester United shirt, almost

everybody intervened to help; when he wore a Liverpool shirt, almost nobody intervened. However, the boundaries of who is to be considered a group member are not fixed. When our experiment was repeated with a different group of Manchester supporters, who this time were encouraged to see themselves not as 'Manchester United' fans but as 'football fans' in general, they helped the actor irrespective of the shirt he wore. Given the usual antipathy between Manchester United and Liverpool fans, this change in behaviour is both powerful and surprising. The more inclusive the group relationship can be made to be, the more likely we are to take responsibility for the welfare of others.

CHALLENGING AGGRESSORS

There is also good evidence to suppose that bystanders are more likely to be influenced by the behaviour of fellow bystanders if they believe those bystanders to be ingroup rather than outgroup members. For example, in a recent study, people were shown CCTV footage of a violent attack in a car park. They watched the

"The more inclusive the group relationships can be made to be, the more likely we are to take responsibility for the welfare of others."

footage in groups of four and were then asked to say whether they would intervene or not.³ However, only two people in the group were genuine (or naïve) participants. The other two were 'stooges' of the experimenters who (on different occasions) described themselves as ingroup/

outgroup members, and said that they would or would not intervene. Only when the 'stooges' described themselves as ingroup members did their intention to intervene or not to intervene have any effect.

Finally, and least straightforwardly, there is the relationship between bystanders and perpetrators. This is the most under-researched relationship in the entire violence literature but it is also the relationship that offers the most potential for violence intervention work. For example, if a bystander recognises a fellow ingroup member as a perpetrator of violence, they should be more successful if they choose to intervene to halt the violence than if the same intervention was attempted by an outgroup member. In other words, perpetrators of violence are more likely to listen to the interventions of fellow ingroup members than they are to the intervention attempts of outgroup members. However, there is no reason to assume that if a bystander recognises a perpetrator of violence as an ingroup member they will be motivated to intervene to stop the violence in the first place. If you see a fellow ingroup member engaging in violence, you may be led to assume that the violence is justified or has been provoked. You may not think that intervention to halt the violence is warranted. It is only when ingroup members engage in acts of violence that will bring shame or dishonour on the group as a

whole that ingroup members will be likely to challenge the perpetrator.

'HE'S NOT WORTH IT!'

The key issue for those who hope to use the bystander-perpetrator relationship to tackle violence is how to make fellow group members feel responsible for, and implicated by, the behaviour of violent group members. For example, women have long argued that male on female

violence needs to be seen as a problem for other men. One effective strategy against domestic violence would therefore be to make other men feel responsible for (and implicated in) the behaviour of those men who attack women. Rather than allowing men to say that domestic violence has nothing to do with them, men should be persuaded that they have a responsibility to intervene (directly or indirectly) in cases of suspected domestic violence. In similar fashion, writers on racism have long argued that racism is a problem for white society. Campaigns against racist harassment are likely to be more successful if racist actions are seen to reflect directly on the 'silent majority' and members of that majority come to feel both implicated and shamed by the behaviour of racist perpetrators.

Although it is not very well researched as yet, it is clear that, at an informal level, violence regulation by ingroup members is already going on. You only have to look at what happens in the 'night-time' economies of towns and cities across the country to see evidence of this. The explosion of pubs and clubs in our town centres over the last few years has brought thousands of people onto the streets. The people who go out drinking do so, by and large, in groups. It is not uncommon to see members of these groups (usually but not exclusively young men) involved in arguments or altercations. Sometimes these exchanges escalate into violence. Fighters are encouraged to settle their differences through force. More often, the protagonists are separated by other members of their entourage who drag them away telling them to 'stop being so stupid'. There is informal self-regulation.

HARNESSING THE POWER OF BYSTANDERS

Sometimes violence is deemed to be legitimate and the perpetrator is allowed (or even



Hannelie Grobler

encouraged) to fight for his/her honour. Sometimes 'mates' join in and the violence escalates to a mass brawl. However, at other times, the violence is not approved of by others because the proposed violence is illegitimate and would bring shame upon the group. In order to harness the power of the bystanders to reduce street violence in our night-time economies, we need to know more about when violence is considered to be legitimate or not, and what the conditions are for bystanders to take responsibility for the behaviour of violent group members.

At present we know little about what makes bystanders behave in the ways that they do. But we do know that they have power to reduce violence and that we should harness that power to reduce crime. In doing this, we must look beyond the characteristics of individual

"It is not the individual personalities of bystanders we should be interested in, but the relationships between bystanders, victims and perpetrators."

bystanders to look at the relationships between bystanders, victims and perpetrators. Of these, the most important relationship seems to be that between ingroup bystanders and perpetrators of violence. We need to know more about the norms and values of groups and communities who contain violent perpetrators. If we do, we

can encourage and support those groups to take responsibility for the actions of perpetrators. Encouraging others to intervene appropriately when violence flares up is a relational strategy – and one that is currently underresearched and undervalued.

Dr. Mark Levine is Lecturer in Psychology at the Department of Psychology, University of Lancaster and was a lead researcher in the Economic and Social Research Council (ESRC) Violence Research Programme.

1 Latané, B. & Nida, S. 1981. 'Ten years of research on group size and helping.' *Psychological Bulletin*, 89 (2), 308-324.

2 Levine, R.M. 1999. 'Rethinking bystander non-intervention: social categorisation and the evidence of the witnesses at the James Bulger murder trial.' *Human Relations* (52), 1115-1232.

3 Levine, M, Cassidy, C, Brazier, G & Reicher, S. 2002. 'Self-categorisation and bystander non-intervention: two experimental studies.' *Journal of Applied Social Psychology*, (in press).

SUBSCRIPTION FORM

Annual subscriptions to the *Relational Justice Bulletin* are:

- £9.00 for individuals
- £15.00 for organisations
- £6.00 for students / unwaged (add an extra 25% for overseas)

☐ I wish to subscribe to the *Relational Justice Bulletin* and enclose a cheque / postal order, made payable to the Relationships Foundation, for:

- ☐ £9.00 (individual)
- ☐ £15.00 (organisation)
- ☐ £6.00 (students / unwaged) add an extra 25% for overseas

☐ I would like to order copies of the book *Relational Justice: Repairing the Breach* (£11.00 each including P&P) and enclose a cheque/postal order for £

Name

Address

Postcode

Return to:
The Relationships Foundation
Jubilee House, 3 Hooper Street
Cambridge CB1 2NZ

WORKING OUT OF TROUBLE

Samantha Sherratt looks at how prisoners can be given a real work experience in prison



Finding employment on release is one of the most significant factors in preventing re-offending. Released prisoners are less than half as likely to commit further crimes if they were helped to find and keep a job, according to Home Office figures¹. Prisoners themselves cite finding a job, a home and a stable relationship as the most important factors in going straight². However, as the Social Exclusion Unit (SEU) recently highlighted³, two thirds of people arrive in prison from unemployment, and three quarters leave with no jobs to go to.

"Two thirds of people arrive in prison from unemployment, and three quarters leave with no jobs to go to."

Since the late 1990s, the Howard League has been investigating the reality of work in prison, culminating in the report, *Rehabilitating Work*⁴. This revealed a far from inspiring picture.

MOTIVATION TO WORK

Not only are work opportunities limited, but those that are on offer are predominantly menial. Many prisoners spend their days counting nails into plastic sleeves and stapling the tops or putting stickers and lids on plastic containers. The vast majority of prison work places are in maintaining the prison service itself, whether cleaning, cooking, sewing uniforms, collating plastic cutlery sets or boxing toothbrushes. Needless to say, such work is met with little enthusiasm and poor diligence.

The Howard League also found that the nature of prison work is usually unlike that on the outside. Machinery and processes are outdated, poorly timed 'interruptions' (for legal visits or gym, for example) reduce output, and prisoners are passive and uninvolved in the development of the products they produce. They are also locked in their cells for two hours in the middle of the day while prison officers have lunch. Together, these create an artificial environment and send the wrong signals to prisoners for whom this is their first experience of work. It also affects productivity levels and discourages companies from setting up workshops in prisons.

The motivation to work is ultimately diminished by the token pay prisoners receive. Prisoners are specifically exempted from the National Minimum Wage Act, and those who work, earn around £7-10 per week, while prisoners who are unemployed receive an average £2.50.

CHEAP LABOUR

Some prisons have embarked on public/private partnerships where a private company supplies the equipment and materials and pays enough money to the prison to cover the prisoners' salaries and overheads. These private companies are effectively using prisoners as cheap labour, giving them the most menial tasks that might otherwise be exported. The Howard League is concerned that prisoners are being blatantly exploited for the profit of private companies, and advocates that all prisoners should receive at least

the minimum wage—a fair day's pay for a fair day's work. Why should firms employing prisoners on day release in the community have to pay the minimum wage, while those who operate inside, pay only pocket money?

Of course, the Howard League is not attacking public/private arrangements *per se*. Some of the relationships developed have led to prisoners being interviewed and employed by these companies on release.

REAL WORK IN PRISON

The Howard League is currently conducting a feasibility study for its 'real work' initiative, which aims to show, by example, how the proposals in *Rehabilitating Work* can be translated into practice. Specific prison and industry are still being finalised, but there are a number of key principles, as follows:

- Workshops should operate under fair trade principles, with prisoners earning at least the minimum wage
- Prisoners should receive 'real world' contracts of employment
- Prisoners should save for their release, support their families and donate to victim support charities
- Prison work should be more than 'machine minding', and a Works Committee will be set up to encourage workers to feed into the development of the workshop, its internal systems, marketing, relevant NVQs and other work-related qualifications will be offered
- 'Interruptions' should be kept to a minimum. Negotiations with the governor should ensure that prisoners are given the opportunity to study, receive visits, attend therapy sessions etc outside working hours.

"Prisoners should save for their release, support their families and donate to victim support charities."

WORK ON THE OUTSIDE

Various new initiatives are making inroads into helping prisoners plan their futures. The Custody to Work Unit, set up in 2000, has the target of increasing the proportion of prisoners getting jobs or education and training places on release. Last year, the Department of Work and Pensions introduced the Freshstart initiative, providing guaranteed, pre-arranged New Jobseeker interviews for all newly released prisoners. Education programmes are helping to raise basic literacy levels too. But to really boost prisoners' employability we must give them a real work experience, a related education – and a reference under their belt.

Samantha Sherratt is Project Director of the Howard League's Real Work initiative.

We hope to return to the question of providing jobs in prison, and to the practicality of these proposals, in a future issue.

1 Haines, Kevin (1990) *After-care services for released prisoners: a review of the literature*. London: HMSO.

2 Simon, Frances 1999 *Prisoners' work and vocational training*. London: Routledge.

3 Social Exclusion Unit (2002) *Reducing re-offending by ex-prisoners*. London: Office of the Deputy Prime Minister.

4 Howard League for Penal Reform (2000) *Rehabilitating work: what are prison workshops for?* London: Howard League.