**Sociology 4099: Victimology**

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**Overheads Week 7.1:**

**Using the Victim Role as both Sword and Shield:**

**The Interactional Dynamics of Restorative Justice Sessions**

\* Restorative justice is currently popular in criminology/social policy:

- As an alternative paradigm to the punitive model

- As a way of including the victim

\* Problem: despite theory/ empirical reviews, insufficient data is available on the *interactional* dynamics between victims and offenders

\* In response, a colleague and I conducted a preliminary observational study of victim-offender sessions

**Methodology:**

\* I and my colleague, Don Clairmont, attended 24 sessions: (April 2003- April 2004). Detailed field notes were taken

\* Ongoing sampling continued until “practical certainty” was reached

\* Ethics procedures: my role is noted to all participants

\* Transcribed field notes were analyzed using Q.S. R. NUD\*IST

\* A joint paper was written and published in the Journal of Contemporary Ethnography

**Preliminary observations:**

(1) Session characteristics:

- Relatively few sessions scheduled relative to crime statistics

- Many sessions canceled / parties don’t show up

- Limited victim involvement

- Offenders largely male, Caucasian and working class

- Victims included adults, teens, and institutions

- Offender supporters more evident/ largely parents

- 40 different facilitators (2/3 female/ 3/4 Caucasian)

- Charges largely involve theft, assault, B+E & mischief

- Resolution contracts negotiated in all but 2 sessions. Common

terms include apologies, restitution, community service, essays

and counseling

(2) The politics of description:

- Procedures officially *designate* parties “victims” or “offenders”

- These are notably reinforced by facilitator’s opening

- Give one party an initial rhetorical/ representational advantage

- The other party must respond to this

(3) *Rhetorical* use of the victim role:

(i) “Offenders” as shield:

-Contrition: “I have changed/ have already suffered”

-Downplaying role: peer pressure/ singled out/ abused/ disorders

-Stalling (often unsuccessful)

(ii)“Offenders” as sword:

-Victim doesn’t have “clean hands” (e.g. provocation)

(iii) “Victims” as sword:

-Seriousness of offender’s actions/ what could have happened

-Costs/inconveniences incurred

-Shock and disrespect

-Exacerbating factors (e.g. special occasions/medical conditions)

(iv) “Victims” as shield:

- Offender already accepted responsibility

- Impugned actions were necessary

- Actions not personal/doing my job

- Offender already had chances/must earn trust

(5) Victim Contests:

-Disputes over who is the “real” victim/ biggest victim

-Outcomes:

(i) Escalation/session terminated (3 sessions)

(ii) Successful facilitator intervention (3 sessions)

(iii) “Papering over” differences (3 sessions)

(iv) One party wins/outcome in favor (5 sessions)

(v) Victim role expands/vehicle to resolution (10 sessions)

(6) The role of supporters:

- Supporters often parents of the parties/ very active in the process

- “Offenders” parents: excuse behavior, emphasize their parenting, children’s suffering, victimization, “changes”, and ensure final agreement fair. Some also dispute facts/ responsibility

-“Victims” parents emphasize children’s (and own) suffering/ respond to allegations

-“Offenders” parents shaming offender (can swing outcome)

- Parties claiming victimization through process

- Police officers countering self-serving claims

(7) Facilitators and Reintegrative Shaming:

-“Reintegrative shaming” usually left to parties (therapeutic hands

off approach)

- Common phases: intro/incident/contract

- Rapport with “victims” through identifying issues/ summarizing

- More direct with “offenders” claims (e.g. questioning role)

- Unlike traditional mediation (parties not equal)

- Important skills:

(i) Coordinating strategies of drawing out offender (“velvet fist”)

(ii) Preventing unsuccessful end of session (“another session?”)

-Much *variation* in skill/ activity level of facilitators (some manage

claims/ power dynamics; others easily pushed into coalitions

through successful victim claims). A matter of concern.

**Conclusion:**

\* This preliminary research is shedding light on an empirically neglected aspect of restorative justice

\* Major factors:

- Session characteristics

- Politics of description

- Rhetorical use of the victim role / victim contests

- The role of supporters

- Skill of facilitators

\* It is evident that RJ doesn’t really get away from the adversarial process. Warm and fuzzy rhetoric aside, it simply sets the stage for an adversarial process in a *different form*.