**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*.