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Managing risk:
From regulation to the reintegration of sexual offenders

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Abstract

In recent years the management of the dangerous, particularly sex offenders, has generated enormous concern. This concern has been reflected at a number of different levels—in media and popular responses to the risk posed by released sex offenders and in official discourses where an abundance of legislation and policy reforms have been enacted within a relatively short period. This analysis seeks to evaluate critically these developments within the context of contemporary criminal justice policy and practice in relation to the management of sex offenders in the community. The article analyses the contemporary focus on risk management or preventative governance which underpins the current regulatory framework and has been reflected in both the sentencing options and in control in the community initiatives for sex offenders. In this respect, the article highlights the gap between policy and practice in terms of the effective risk management of sex offenders. Given the failure of the traditional justice system with respect to these types of offences, it will be argued that the retributive framework could usefully be supplemented by the theory and practice of reintegrative or restorative community justice, in order to manage better the risk presented by sex offenders in the community.

Key Words

restorative justice • risk management • sex offenders

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Introduction

In recent years, there has been acute popular and official concern with managing those perceived to be a danger to society. The central importance of risk within social and political theory generally (Beck, 1992; Ericson and Haggerty, 1997) has been reflected in contemporary criminal justice discourses and the resulting legislative framework on regulating the behaviour of sex offenders on release from custody (Hebenton and Thomas, 1996b; Kemshall and Maguire, 2003; Matravers, 2003). One of the most notable of these recent measures is sex offender registration and community notification, which has been the subject of considerable criticism and debate (Marshall, 1997; Soothill et al., 1997; Soothill and Francis, 1998; Cobley, 2003).

These official concerns over the risk posed by released sex offenders in the community have also been reflected in popular discourses. The media response in this respect can be best epitomized by the adoption of 'name and shame' campaigns, which have encouraged public outcry, punitive public attitudes and often vigilante justice (Ashenden, 2002). These retributive approaches serve to label, stigmatize and isolate the offender from the rest of the community and impede their successful rehabilitation and reintegration (McAlinden, 2005).

The principal argument of this article is that given the failure of traditional regulatory approaches there is scope for exploring the potential of other forms of justice in order to manage risk, reintegrate sex offenders and protect the public more effectively. Key elements of such an approach are the theory and practice of reintegrative or 'restorative community justice' (Bazemore and Schiff, 1996) and public education and awareness campaigns.

The structure of the article will be as follows: the first part of the article will outline the socio-political context surrounding the current popular and official concern with managing the risk posed by released sexual offenders in the community. This includes the punitive attitudes of the media and the public and the importance of risk penality within criminal justice agendas. The second section will critically examine some of the most recent developments in the law, policy and practice on the management of sex offenders within an overall retributive framework. Finally, the third section, given the failure of traditional regulatory approaches, will outline alternative responses to managing the risk posed by sexual offenders in the community from a reintegrative standpoint.

The socio-political context

Sex offenders, particularly those who offend against children, and how best to deal with them, are issues which feature prominently in the law and order debate. A number of factors have contributed to the social and

political conceptualization of managing sex offenders in the community as a serious social problem and may help to explain why this issue is high on public, governmental and organizational agendas. These include media construction and representation of sexual offences and the emergence of the 'risk' society and preventative governance within a broader crime control law and order ideology.

The media, 'moral panic' and 'populist punitiveness'

Sexual crime increasingly dominates the headlines (Caputi, 1987; Soothill and Walby, 1991; Soothill and Grover, 1995). There has been an explosion of interest in the topic of 'paedophilia' or 'paedophiles' in particular (Soothill et al., 1998).[1] In the last two decades a number of tragic cases in England and Wales have attracted widespread publicity, provoked public outcry and have provided the impetus for legislative and organizational change. An examination of some of the most high-profile cases suggests a number of prominent themes. These include revelations about paedophile rings,[2] child pornography[3] and the vulnerability of children in environments traditionally considered secure such as homes, clubs and schools.[4] The prevalence of stranger danger cases specifically has highlighted the dangers posed by convicted or suspected paedophiles living in the community and has been used as the basis for a media-led cry for a more punitive criminal justice response.[5]

Recent media coverage of sexual offences has had a number of negative and undesirable effects on the popular imagination. As Greer (2003) has recently argued, media representations of sex crime give the public important cues about how they should perceive the nature and extent of sex crime, how they should think and feel about it, how they should respond to it and the measures that might be taken to reduce risk. In this respect, the increase in the number of sexual offences being reported and recorded has arguably created a 'moral panic' (Cohen, 1972/1980) about sexual offending (Soothill, 1993; Sampson, 1994). Newspaper reporting of sexual offences has given the impression that there has been an unprecedented explosion in sexual crime and that women and children are increasingly at risk of attack by sexual monsters (Sampson, 1994: 42). A popular image of the paedophile is also created which may imply a homogenous category of perpetrator. The sexual offender is demonized as a monster or fiend and is singled out above other dangerous offenders in society (Soothill and Walby, 1991: 146; Sampson, 1994: 43–4; Thomas, 2000: 15–24).

Moreover, the media are also influential in prompting vengeful and punitive public attitudes in relation to sex offenders. Perhaps the most well-known case in this respect is the abduction and murder of 8-year-old Sarah Payne in 2000. In response to her death, the *News of the World* developed its 'Name and Shame' campaign which focused on the 'outing' of suspected and known paedophiles (Silverman and Wilson, 2002: 146–66). The

newspaper promised to continue publishing photographs, names and addresses and offending histories until they had 'named and shamed' all of the child sex offenders in Britain.

This media crusade provoked hysteria and vigilante activity. Residents in Portsmouth protested at the presence of paedophiles living in their community and the failure of the authorities to notify them of their whereabouts. They demonstrated outside the homes of suspected paedophiles, daubed slogans on their walls, issued threats and destroyed property. As a direct consequence of this activity, one known paedophile disappeared and two suspected paedophiles committed suicide (Ashenden, 2002: 208).[6]

This case demonstrates that far from managing risk effectively, the net result of the popular response to released sex offenders is often labelling, stigmatization, social exclusion and, ultimately perhaps, a return to offending behaviour as a coping mechanism (McAlinden, 2005).

As will be discussed in the next section, these punitive public attitudes towards sex offenders have also been reflected in recent criminal justice policy, which focuses predominantly on the need to manage risk and protect the public from dangerous, violent and sexual offenders in the community.

'The new penology': public protection, risk and preventative governance

The contemporary politics of crime control place a strong emphasis on public protection, risk management and preventive governance as part of the 'new penology' (Feeley and Simon, 1992), 'risk society' (Beck, 1992; Ericson and Haggerty, 1997) or 'the new regulatory state' (Braithwaite, 2000; Shearing, 2000). As Matravers' recent edited book (2003) makes clear, this risk penality has been particularly evident in relation to concerns over the risk posed by released sex offenders living in the community where assessing, managing and reducing those risks has become a central concern (Kemshall and Maguire, 2003). Indeed, it has been argued that the concepts of risk management (Parton et al., 1997: 232–40) and, more recently, governance (Ashenden, 2002, 2004) have become the key signifiers for the regulation of child (sexual) abuse and managing sexual offenders in the community generally, both in terms of policy development and practical decision making.

The 'tracking' or management of sexual offenders in the community can also be examined in a narrower context which emphasizes both the proactive 'management' of knowledge about offenders and the production of compensatory measures against risk (Hebenton and Thomas, 1996a, 1996b: 430–2, 439–40). 'Knowing' offenders' activities and their whereabouts allows for both preventative action and for risk assessment where offenders are made objects of knowledge in order to classify them into appropriate risk categories (Hebenton and Thomas, 1996b: 440). In the context of the police (Ericson, 1994; Johnston, 2000), previously dominant

values such as prosecution give way to having access to and recording knowledge about suspects or offenders in the community.[7]

The post-prison release arrangements for managing sexual offenders in the community can also be usefully considered in terms of the two inter-related concepts of risk and security (Hebenton and Thomas, 1996b: 430–2, 435). Following Ericson and Haggerty's (1997) model of 'knowledge-risk-security', the primary purpose of measures such as sex offender registration is to increase public safety and security through managing the risk posed by persons convicted or cautioned of sexual offences by having knowledge of their whereabouts. In common with popular responses, however, the official concern to manage effectively risky individuals in the community, as reflected in the current regulatory frame-work, may not be fully realized in practice.

Indeed, as will be demonstrated in the following, while the governance or control of the dangerous and those who pose a risk to society, particularly sex offenders, has been a mainstay of criminal justice debates in recent years, there is tension and variation in the methods of social control deployed (Garland, 1996, 2001; O'Malley, 1999, 2002). As Rose (2000: 321) argues, these range from punitive demands for the preventive detention of dangerous or 'risky' individuals such as paedophiles to the development of multi-agency work on the assessment and management of risk and the use of therapeutic and rehabilitative alternatives via community disposals and reintegrative shaming.

The regulatory framework: law, policy and practice

Many American states have adopted legislation in response to the problems posed by the management of repeat sexual offenders in the community. Several different laws have been enacted to deal specifically with violent sexual crime. This has included both the civil commitment of dangerous sexual offenders, and criminal provision via such measures as chemical castration and sex offender registration and community notification, eventually embodied in what has become known as 'Megan's Law' (Bedarf, 1995; Kimball, 1996). These developments have been broadly reflected in the criminal and civil law arrangements put in place in the United Kingdom where the recent emphasis has also been upon identifying individuals who are likely to commit serious harm in the future. In this respect, the regulatory framework for managing sex offenders can be further sub-divided into the penal and mental health systems and measures on release from custody.

Penal provision

As the 1990s unfolded, successive governments, mindful of the need to deliver 'populist punitiveness' (Bottoms, 1995) and to counter increasing

public hysteria, developed a punitive legislative framework that laid emphasis on the effective management of the dangerous. The Criminal Justice Act 1991, as part of its bifurcated policy, authorized 'public protection' sentences for violent and sexual offenders. The current sentencing framework, generally contained in the Powers of Criminal Courts (Sentencing) Act 2000, is also based on the concept of 'just deserts' with sex offenders being singled out for special consideration. This is reflected in the nature and length of the sentence imposed, the release of the offender at the end of a custodial sentence and the period of supervision in the community as part of the extended sentence (Cobley, 2003: 52–60). In this vein, following a recent review of sentencing structures (Home Office, 2001a), Part 12 of the Criminal Justice Act 2003 introduced, inter alia, an indeterminate preventative sentence for violent or sexual offenders for public protection purposes (Padfield, 2003). Offenders would remain in custody under this protective sentence until it is considered that the risk they presented has sufficiently diminished (Henham, 2003).

Mental health provision

In a similar vein, the current review of the mental health legislation, currently contained in the Mental Health Bill 2004, proposes the introduction of an indeterminate sentence for the severely personality disordered. Traditionally, dangerous people have been dealt with by one of two routes. Those who have committed an offence have been dealt with by the criminal justice system, while individuals who are mentally ill and in need of treatment have been processed through the mental health system. In recent times, however, a new category has emerged, that of the dangerous person with a severe personality disorder who is untreatable. Such individuals also include sex offenders. These proposed measures have been criticized as a form of preventive detention and, as such, have been strongly opposed on civil liberty grounds (McAlinden, 2001).

Post-release control

This toughening in official policy towards sexual offenders was most clearly reflected, however, in proposals to control sexual offenders in the community more effectively. A 1996 consultation document on the sentencing and supervision of sexual offenders (Home Office, 1996; Cobley, 1997) advocated strengthening the arrangements for supervising convicted sexual offenders following their release from custody. These proposals have been embodied in a comprehensive range of measures which are founded on the basic premise that the best way to protect the community and potential victims is through increased restriction, surveillance and monitoring of sex offenders (Kemshall, 2001). One of the key recent measures in the official response to concern over sex offenders is sex offender registration, which, perhaps as a result, has attracted considerable academic criticism and debate.

Sex offender registration

Registration, initially provided for by Part I of the Sex Offenders Act 1997, requires certain categories of sex offender to notify the police of their name and address and any changes to these details within a specified period (Cobley, 2000: 323–32, 2003: 54–6; Thomas, 2000: 106–22). Following calls for reform, the original registration requirements in the 1997 Act were first tightened by the Criminal Justice and Courts Services Act 2000 and later replaced by Part 2 of the Sexual Offences Act 2003. For example, initial registration is now required in person within three days as is any subsequent registration of changes to the offender's personal details. The conditions attached to registration for the offender and the degree of notification permitted to the community vary depending on the assessed level of risk (Kemshall and Maguire, 2003). In England and Wales there are now Multi-Agency Public Protection Panels (MAPPs) to carry out this task (Maguire et al., 2001; Bryan and Doyle, 2003; Lieb, 2003).

Questions of how the register would actually operate in practice, however, appear to have been little considered, even in the process of the recent reforms. The issue of when the community should be notified about the presence of sex offenders living in their area in particular remains controversial in the UK and is certainly nowhere near as widespread as in the United States. Calls for the public to have a right of access to the information notified to the police, a so-called 'Sarah's Law', have been repeatedly rejected and it would seem that the Government is unwilling to legislate on the use made of information (Silverman and Wilson, 2002: 125–45; Power, 2003; Thomas, 2003).

Moreover, failure to address a number of key issues such as efficacy and adequate policing resources may mean that the legislation is of limited practical effect in managing the risk posed by released sex offenders. As Cobley has recently suggested (2003: 60–1) the efficacy of the 'register' depends on two factors: the first is offenders' compliance with the notification requirements, and the second is the use made of this information by agencies. In relation to the former, a few years after the implementation of the 1997 Act, the national compliance rate with the registration requirement was placed at over 97 per cent (Home Office, 2001b: 5). However, such a figure is likely to decrease incrementally as registration procedures are tightened and the number of offenders subject to the requirement increases.

In relation to the latter, it was thought that too many sexual offenders would potentially be subject to such provisions for them to be realistic policing options. Marshall (1997) estimated that 125,000 men aged 20 or over in the 1993 population of England and Wales had a conviction for an offence that would have been registerable had the Sex Offenders Act 1997 been in force at that time. In any event, those figures did not take account of cautions so that the real number may be even more (Soothill et al., 1997; Soothill and Francis, 1998: 289).

The overriding limitation of such measures of course, is that they are by their nature aimed at those offenders who have already come to the attention of the authorities in some way. As such, they can have no impact on managing the risk presented by unknown sex offenders who remain beyond the scope of the legislative framework. This is highly significant since recent research suggests that fewer than 5 per cent of sex offenders are ever apprehended (Salter, 2003).

Other recent measures

A whole host of other control mechanisms have recently been added to what has effectively become a legislative melting pot for the management of sex offenders in the community. These have included sex offender orders (SOO)[8] and restraining orders (RO),[9] enacted to strengthen the Sex Offenders Act 1997, which were used to prohibit the offender from frequenting places where there are children such as parks and school playgrounds. Research indicates that the power to apply for a SOO has not been widely used, with less than 100 orders being made within the first three years following implementation. Action for breach was taken in respect of approximately 50 per cent of the orders made (Knock et al., 2002). This may indicate that such measures are of limited deterrent effect. Both of these orders have now been combined and replaced with a new expanded order—a sexual offences prevention order—under the recent Sexual Offences Act 2003.

This Act also introduces a second new measure—the risk of sexual harm order—a new civil preventative order, which has been designed to protect children from sexual harm. It can be used to prohibit specified behaviour, including the 'grooming' of children (Cobley, 2003: 65–9). This term covers the situation where a potential offender will seek to make contact and become familiar with a child in order to prepare them for abuse either directly (Salter, (1995), or as is the case more recently, through Internet chat-rooms (Gillespie, 2001). The term has recently found expression in section 15 of the Sexual Offences Act 2003, which makes it an offence to 'meet a child following sexual grooming'.

This new offence is significant in that it is a full offence and not an inchoate offence, yet it seeks to criminalize the preparatory acts involved in abuse and allow intervention well before actual physical exploitation takes place. This in itself is highly indicative of the development and expansion of the legislative framework for managing sex offenders in the community in recent years.

However, once more such a measure will have limited potential to manage effectively the risk presented by sex offenders in the community. The hidden and secretive nature of sex offending behaviour (Salter, 2003) means that it is highly unlikely that the police will be able to detect all instances of grooming and other acts harmful to children which occur prior to the actual abuse (Gillespie, 2001; Ost, 2004).

Given the wide variation of measures used to control sex offenders in the community the current focus of criminal justice policy and practice is arguably on a 'what works' approach. When it comes to sexual offences, however, particularly those against children, the traditional regulatory framework does not seem to be working. This is evidenced by a number of factors—by statistical evidence showing the increase in sexual offences generally;[10] by media coverage of high-profile cases; and by the acknowledged weaknesses inherent in much of the legislation. This then points towards the need to think more constructively and devise a more progressive and ultimately more effective response to the problem.

Alternative responses to sexual offending

It has been argued that child sexual abuse is a small component of the broader category of 'gendered and sexualised violence' (Hudson, 2002), which causes significant trauma for victims (Herman, 1997) yet continues to evade traditional justice approaches. The failure of the formal regulatory framework with respect to sexual offences means there is room to examine alternative forms of justice and their ability not only to manage the risk posed by sex offenders in the community more effectively, but also to improve the outcome for victims and communities affected by sexual offences (Finstad, 1990; Braithwaite and Daly, 1994). The two central components of such an approach are the use of 'restorative community justice' within a holistic reintegrative context and the need for public education and awareness.

'Restorative community justice'

The terms 'community justice' (Barajas, 1995; Griffiths and Hamilton, 1996) and 'restorative justice' (Zehr, 1990/1995) are often used interchangeably. Indeed, a third alternative in this context is the hybrid term, 'restorative community justice' (Bazemore and Schiff, 1996). However, although the recent usage of these two concepts has become blurred, there are important nuanced and conceptual distinctions between them (Crawford and Clear, 2003). In the main it has been argued that restorative justice is 'case based' whereas community justice is 'community based'— the former 'works' when key participants end up feeling restored, while the latter 'works' when the quality of life in a given place is improved (Crawford and Clear, 2003).

Despite these subtle differences, there are none the less a number of common aims and themes in these paradigms. These include changing the focus of justice intervention from retribution to reparation; altering the justice process to bring informal justice processes closer to local communities and increase citizen involvement in the process of restoration (and reintegration); considering the impact on victims and significant others, and

empowering victims and offenders (Zehr, 1990/1995; van Ness, 1993; Bazemore and Umbreit, 1995). It is these common elements that are the subject of this analysis, which will focus on the benefits of 'community' or 'reintegrative' justice as a whole in managing the risk posed by sex offenders in the community.

These umbrella terms have generally been associated with myriad programmes and practices that seek to respond to crime in what is seen to be a more constructive way than through the use of conventional criminal justice approaches. These range from the broader community-based initiatives such as community policing and neighbourhood revitalization to those more specifically associated with restorative justice such as victim–offender mediation (Marshall, 1991; Davis, 1992; Umbreit, 1994), family group conferencing (McElrea, 1994; Retzinger and Scheff, 1996; Morris and Maxwell, 2000) and circles of support and accountability (Cesaroni, 2001; Petrunik, 2002; Wilson et al., 2002). The latter is of particular relevance to reintegrative efforts with sex offenders and will be discussed further later.

Reintegrative justice and sexual offences

While differences and debates continue among proponents and practitioners of restorative justice as a whole, its general principles of providing restitution to victims and the communities, promoting offender reintegration and repairing relationships between victims, offenders and communities are well understood and increasingly accepted (Johnstone, 2001; Sullivan and Tift, 2001; Braithwaite, 2002; McEvoy et al., 2002). However, the framework of restorative justice has not been without its critics. Detractors have pointed out the latent dangers with informal justice, primarily the need to ensure legitimacy (Paternoster et al., 1997), accountability (Roche, 2003) and adequate safeguards (Ashworth, 2002; Hudson, 2002; Wright, 2002). Those who do accept that restorative justice may have a role to play with low-level crime are usually less willing to extend this paradigm to more serious forms of offending (Johnstone, 2003).

Advocates such as Barbara Hudson (1998, 2002), Alison Morris and Lorraine Gelsthorpe (Morris and Gelsthorpe, 2000; Morris, 2002) and Kathleen Daly (2000, 2002), among others, have advanced the case for the application of restorative justice to sexual and violent (and racial) crime. More recently, there has been an attempt to extend this formative work in the area of domestic violence and adult sexual offences to child sexual abuse (McAlinden, 2005). These writers highlight the perceived failings of the present regulatory framework in responding to sexual offences and the greater potential of restorative justice for providing satisfactory outcomes in more cases (Hudson, 2002: 621).

These writers have addressed some of the traditional critiques concern-

ing restorative justice as applied to 'hard' cases and how they can be overcome (Hudson, 1998, 2002; Morris and Gelsthorpe, 2000; Morris, 2002). There is a danger of oversimplifying the principal arguments here, but in the main advocates have focused on a range of claims including that restorative justice trivializes what are very serious criminal offences, particularly where children and the vulnerable are concerned; it fails to promote offender accountability and allows the offender to reject responsibility for the offence; it reproduces and reinforces the imbalance of power entrenched in abusive relationships and leads to possible re-victimization; and it encourages vigilantism.

Such claims have been countered theoretically (Hudson, 1998; Morris and Gelsthorpe, 2000) and empirically (Morris, 2002) by arguing conversely that even though the criminal law remains as a symbolic signifier and denouncer, in fact restorative processes which involve the abuser's family and the wider community are far more potent agents to achieve the objective of denunciation and of mobilizing censure; that while the criminal justice system does little to hold offenders accountable and address entrenched patterns of offending behaviour,[11] restorative justice seeks genuine engagement with offenders to help them acknowledge the harm done and appreciate the consequences of their actions; it focuses on the empowerment of victims in a supportive, fair and uncoerced environment in which the victim can make clear to the offender the effects of the abuse on them; that by offering constructive rather than penal solutions, it may be opted for at an earlier stage in the victim's experience of abuse; and finally, that distortions of power, including community control, are addressed when programmes stick closely to restorative values and principles.

Reintegrative practices with sexual offenders

In this respect, although restorative or reintegrative practices for sex offenders are not widespread, a few have been developed in Canada and parts of the United States, which are based on rehabilitative and reintegrative principles. These schemes, which have grown out of the shared association with the principles and practices of restorative and community justice, include most notably 'The Safer Society Program' (Knopp, 1991), and 'The Stop It Now Program'. The latter prevention programme originated in the United States but has now been extended to the United Kingdom and Ireland.[12]

One of the best-known schemes, however, is 'Circles of Support and Accountability', which operate principally in Canada with selected sexual offenders who are considered at high risk of re-offending and who are re-entering the community on release from prison (Cesaroni, 2001; Petrunik, 2002: 503–5; Silverman and Wilson, 2002: 167–84; Wilson et al., 2002).[13] The scheme is based on the twin philosophies of safety and support—it

operates as a means of addressing public concerns surrounding the re-integration of sex offenders and also the offender's needs. The circle is focused on the development of a network of informal support and treatment built around the offender, the core member, involving the wider community in tandem with state and voluntary agencies.

The offender and other members of the circle enter into a signed covenant, which operates as a reintegrative plan of action and specifies each member's area of assistance. The scheme provides intensive support, guidance and supervision for the offender, mediating between the police, the media and the general community to minimize risk and assist in reintegration. The offender agrees to relate to the circle of support and accept its help and advice, to pursue a pre-determined course of treatment and to act responsibly in the community. The offender has contact with someone from the circle each day in the high-risk phase just after release. All members meet weekly to discuss any issues that may have arisen and need to be addressed. The life of a circle extends as long as the risk to the community and the offender is above average. Between its origins in 1994 and 2000, the Community Reintegration Project has set up 30 circles in Toronto and another 12 in other parts of Canada. Most of the circles have been in operation for 18–24 months and the longest has been in place for more than 6 years (Petrunik, 2002: 501).

Despite the proliferation of restorative and community justice programmes generally, there is a general paucity of evaluation research. Critics argue that this lack of empirical analyses means that there is no basis for determining whether these initiatives have been successful in achieving their stated objectives (LaPrairie, 1994). Nevertheless, there have been some empirical studies on the extent to which circles reduce recidivism rates among offenders processed through the circles. The research evidence available suggests that circles have been used successfully with high-risk sex offenders. A recent evaluation of circles in Ontario found that offenders receiving assistance via a circle re-offended at a lower rate incrementally in comparison with a matched control sample. In comparing the expected recidivism rate with the observed rate, recidivism was reduced by more than 50 per cent (Wilson et al., 2002: 378). Furthermore, from a harm reduction perspective, each incident of sexual recidivism was categorically less invasive and severe than the offence for which the offender had most recently been imprisoned (Wilson et al., 2002: 378).

At the same time, however, many restorative and community justice initiatives have objectives which are much more holistic than traditional regulatory responses which typically use recidivism rates as the key outcome measure of crime control. Any future evaluative framework for these approaches would, therefore, also have to include other measurable criteria to assess outcomes such as community and victim involvement, offender shaming and reintegration, and reparation to victims and the wider community, as well as the risk of re-offending (Bazemore and Griffiths, 2003).

Extending the use of reintegrative practices

In relation to how such schemes would work with respect to the present regulatory framework, some scholars continue to highlight the difference of the restorative justice vision as a paradigm shift in criminal law (Zehr, 1990/1995, 1995; Bazemore, 1996; Barnett, 2003; Walgrave, 2003). Others, however, call for recognition of other forms of justice and emphasize the compatibility of restoration and retribution that could be integrated as part of the same system of justice (Zedner, 1994; Levrant et al., 1999; Daly, 2000; Duff, 2002; Hudson, 2002).[14]

In practical terms, it is submitted that restorative schemes could be integrated within the current regulatory framework, and would best operate as an addition rather than as an alternative to custody. Sexual offences could be processed formally in the normal way through the criminal justice system initially. If the offender is convicted, these schemes could be put in place once the offender is released into the community. Since these alternative justice practices are relatively new, they may be expected to continue to evolve as they are adapted to local circumstances (Bazemore and Griffiths, 2003).

However, a number of initial suggestions can be made. Schemes could operate on the basis of a referral by a statutory criminal justice agency. They could be incorporated into existing inter-agency risk assessment and management procedures where recommendations are made about how to deal with individual cases. Schemes could be developed as part of the offender's programme of supervision or treatment in the community and, in common with existing arrangements, could address all aspects of the offender's life necessary for effective reintegration including helping them find suitable accommodation and employment, and not just their abusive behaviour (McAlinden, 2005).

Voluntary participation of the key stakeholders—victims and offenders in particular—must be a cornerstone of the process. It has already been acknowledged that to force victims to participate could lead to further victimization and disempowerment. Moreover, to force offenders to participate in programmes may be futile, since the research suggests that the effectiveness of interventions is often increased when offenders are involved voluntarily (McIvor, 1992; McLaren, 1992; McGuire, 1995).[15]

Public education and awareness

A second component of such alternative responses to managing the problems and risks posed by sex offenders in the community, and which may even be classified as a prerequisite to the implementation of the first, is the need for public education and awareness. One of the greatest challenges facing statutory and voluntary agencies in managing sex offenders in the community is low public awareness and understanding of the various issues surrounding sexual offenders. As discussed earlier, too often media-

generated myths and misconceptions shape and colour public attitudes making meaningful discussion of policies and programmes difficult.

Thus there is a real need to demythologize sexual offending and work together with all groups in the community to achieve a more effective, safer way of protecting children and reducing the risk of re-offending. This underlines the need for a rigorous government-sponsored, media-based, public education and awareness programme designed to provide accurate information and dispel the popular misconceptions about sexual offending (Grubin, 1998; Silverman and Wilson, 2002: 54–9).

One of the most recent texts on this theme is Salter's (2003) book *Predators, Pedophiles, Rapists and Other Sex Offenders*. However, it is the subtitle that is the most illuminating: *Who They Are, How They Operate, and How We Can Protect Ourselves and Our Children*. Salter argues that it is our misconceptions about sexual offenders that make us so vulnerable to them and that it is only by dispelling the myths surrounding sexual offenders that we can effectively deflect sex offenders and protect children.

In this respect, recent Home Office research entitled *Sex Offending against Children: Understanding the Risk* suggests that there are a number of issues which the community could be educated about, including: that contrary to media portrayal and popular belief, the abuser is rarely the 'dirty old man' in the raincoat which we imagine lurking in the corner of the local playground or park; that the majority of sexual abuse, approximately 80 per cent, is perpetrated by people known to the child rather than a predatory stranger; that sexual abusers are men and women and, in a growing number of cases, adolescents or children; that there are different levels of risk and that not all sexual offenders pose the same degree of high risk; and that in tandem with this, recidivism research has shown that most sexual offenders will not re-offend given appropriate treatment and support (Grubin, 1998).

Communities in possession of the full facts about the nature of sexual offending and sexual offenders will eventually feel more able to handle this problem as it occurs in a considered and responsible manner. They should also be a help rather than a hindrance to statutory and voluntary agencies in the successful placement and management of sexual offenders in the community. Through a 'community-system' partnership (Crawford, 1999; Bazemore and Griffiths, 2003: 78) the local community may be able to assist in the determination of what is the most appropriate action to be taken in addressing the needs of the victim and the community, as well as the needs of the offender in terms of their reintegration. Involving the community may also help to reduce the social exclusion and stigmatization of offenders that can lead to further offending. Moreover, there is also less chance that the offender will go underground where risk is not effectively managed but simply displaced to another unsuspecting community.

The wholesale adoption of such an approach may be initially hard to reconcile with the 'populist punitiveness' discussed earlier. However, a form

of community treatment programme which could deliver some tangible benefit in the form of reducing future offending behaviour may persuade the public that this is an ultimately more effective way to protect their children from the risk they feel the offender poses.

Conclusion

It has been demonstrated that the current concern with managing sex offenders in the community can be located within an overall retributive regulatory framework. This has developed largely due to media reporting of sexual offences, which has fuelled punitive public attitudes to sex offenders and the prominence of risk and governance within criminal justice policy making. However, there is a growing recognition that a purely punitive response is no longer sufficient for these types of offences and that there is a real need to develop a more holistic response to the problem. Such an approach would address not just the punishment and control of the offender but also their rehabilitation and reintegration, while at the same time safeguarding victims and the concerns of the wider community. Restorative justice is beginning to be used for some of the most serious social problems. For example it has been used in the truth and reconciliation commissions of South Africa (Villa Vincenzo, 1999) and Rwanda (Drumbl, 2000) with respect to genocide, mass torture and rape. Surely despite the concerns of critics, the fuller extension of this paradigm to the domain of sexual offences, in carefully managed contexts, cannot be far down the line.

Notes

 1 A computer search by the authors revealed that over the first four months of 1998 there were 712 articles including these words in six leading British newspapers.
 2 *The Times*, 25 August 1996, 'Police Investigate Public School Paedophile Ring'; *BBC News Online*, 13 February 2001, 'Paedophiles Jailed for Porn Ring', http://news.bbc.co.uk/1/hi/uk/1168112.stm.
 3 *The Sunday Times*, 16 March 1997, 'RUC Seizes Cache of Irish Child Porn'; *BBC News Online*, 29 November 2001, 'Police Examine Paedophile Evidence', http://news.bbc.co.uk/1/hi/england/1680464.stm.
 4 *The Times*, 8 March 1997, 'Child Abuse Inquiry'; *Guardian*, 20 January 1998, 'Sex Abuse Claim at Boys' Homes'; *Guardian*, 24 February 1998, 'Scout Master Jailed for Reign of Child Abuse'; *The Times*, 12 June 1999, 'Nun Found Guilty of Raping Girl, 10, in Her Care'.

5   *The Sunday Times*, 6 October 1997, 'The Devil You Know Still Abuses Children'; *Daily Mail*, 13 March 1998, 'For Our Children's Sake, Keep These Men in Prison'.

6   *Mirror*, 9 August 2000, 'Paedophile Kills Himself after Mob Attacks His Home'.

7   Section 67 of the Criminal Justice and Courts Services Act 2000 now places a statutory duty on the police and probation services to establish arrangements for assessing and managing the risks posed by sex offenders and other potentially dangerous offenders in the community.

8   Sections 2–3 of the Crime and Disorder Act 1998.

9   Section 5A of the Sex Offenders Act 1997 as amended (by Schedule 5, Section 6 of the Criminal Justice and Courts Services Act 2000).

10 Recorded crime statistics show that the total number of recorded sexual offences has increased by 9.6 per cent in the period 1999/2000 to 2001/2 and by 94.4 per cent in the last 25 years ('Recorded Crime Statistics: 1898–2001/02'—http://www.homeoffice.gov.uk/rds/pdfs/100years.xls). Moreover, recent Home Office research reveals that actual recidivism rates for sexual offenders are 5.3 times the official reconviction rate (Falshaw et al., 2003).

11 Studies on the effectiveness of prison treatment programmes, for example, reveal a moderate success rate and in general terms show that treatment is only marginally effective with some groups as opposed to others (Hedderman and Sugg, 1996; Beech et al., 1999; Friendship et al., 2003).

12 See http://www.stopitnow.com.

13 The terms 'sentencing circles' (SC) and 'circles of support and accountability' (COSA) are often used interchangeably but are in fact two separate entities. SC can be utilized at the outset of the sanctioning process, prior to an offender becoming lodged within the system. COSA, on the other hand, focus in particular on the reintegration of high-risk sex offenders (Wilson et al., 2002).

14 Some restorative justice commentators, however, have argued that in fact restorative justice systems are corroded by their partnership with a retributive framework within the criminal justice system (Boyes-Watson, 1999).

15 Although non-coercive practice is often cited as one of the key principles which underpin restorative practices, there is an increasing honesty within restorative thinking that coercion is never truly absent from restorative processes. If an individual is given the choice between a sentence of imprisonment or engagement in a restorative programme, it is a fallacy to say that this does not involve at least some element of latent coercion.

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