

THE ROLES OF STATE & COMMUNITY IN JUSTICE

- Courts an arm of the State (judiciary 1 of the 3 branches of Government)
- State's role in providing law makers, law enforcers (police, etc), courts, corrections facilities, and taxpayer-funded programmes.
- Involvement of the community in the Courts is always peripheral.
 - some courts involve community agencies eg Red Hook, Drugs Court, Intensive Monitoring Group in Youth Court
 - community is involved in some sentences eg Community Service
- Restorative Justice has enhanced (greatly) the involvement of the community through :
 - (1) use of community volunteers
 - (2) inviting community reps to conferences
 - (3) including panel reps in conferences
- However Restorative Justice (and the community) still at the margins:
because
 - centuries of exclusion of victims
 - centralisation of power
 - predominance of adversary system in legal thinking
 - role of the media (pro conflict v violence)

Therefore – we need other structures

The Community Resolution Centre concept (1998 – 2007) uses –

- (1) notion of consent to authorise an outcome
- (2) notion that laying a complaint is optional

- (3) concept of prosecution being discretionary
- (4) precedent of diversionary conferences in Youth Justice
- (5) option of local government, and/or other existing social elements :
eg Iwi Authorities, to sponsor such an initiative (eg Safer Community Councils)
- (6) ability to partner Government (central & local), academic (AUT) and community elements.
- An underlying central issue – how far is justice a public matter, and how can the public's legitimate interests (if any) be protected?
 - Can punishment be a private matter?
 - What if victims shun the public system?
 - Risks of "private" justice – feelings of unfairness, abuse of process?
 - Restorative justice as a blend of public and private aspects

FWM McElrea
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