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EXPLORING THE PROBATION OFFICER'S ROLE IN VICTIM SUPPORT AND EMPOWERMENT¹

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INTRODUCTION

In the past, victims of crime have profoundly been neglected. Not only were they to a large extent excluded from criminal justice procedure, but assistance and support services and programmes were scarce. The plight of victims to be recognised in the administration of justice resulted in the establishment of various support and empowerment programmes and initiatives. Some of these programmes and services are rooted in the philosophy of restorative justice and realise practically through, amongst others, victim-offender mediation. This article aims to briefly highlight the need for victim support services, conceptualise these services within the paradigm of restorative justice, and more specifically explores the probation officer's role in the rendering thereof. In this endeavour, findings of a recently finalised study regarding the training needs of probation officers in the Free State serve to substantiate the conclusions arrived at.

THE NEED FOR VICTIM SUPPORT SERVICES

The past few years characterised changes and major reforms in South Africa, and, since a re-assessment of the past sheds light on the pitfalls and shortcomings of welfare and safety and security services, a lack of comprehensive support services available to the victims of crime and violence surfaced (South African Law Commission [SALC], 1997a:5). Seen within a broader African context, victims could be considered the "lost son" of the judicial system (Cachalia, 1998:11). Until recently, social workers, criminologists and the public focused mainly on the offender and the victim of crime remained in the background (Barnard *et al.*, 1994:89). As the SALC (1997a:16) rightfully notes:

"In South Africa both the government and the public have become increasingly concerned about rising crime and accusations have been made that neither the State nor other social agencies are doing much about the plight of victims of crime".

Legislation addressing the compensation of victims was developed in 1963 in New Zealand and in 1964 in Britain, and since then gave rise to the development of various services provided to victims of crime (Schurink, 1991:27). In South Africa, victimisation received little attention and lacked formal legislation. During the late eighties and early nineties, Victimology as a discipline within the broader framework of Criminology gained academic support and momentum, and various welfare organisations and NGOs developed victim support services such as rape crisis units, family and child abuse services, child lines and refuges for victims of domestic violence. Support services to victims of violence (e.g. terrorism and robbery) and child protection units were also established, while national, provincial and local action is presently taken to co-ordinate and maintain a victim centred support service in South Africa (SALC, 1997a:17-18). Existing policies also acknowledge the rights and needs of victims. For

¹ The financial assistance of the National Research Foundation (NRF) toward the research is hereby acknowledged. Opinions expressed and conclusions arrived at are those of the author and should not necessarily be attributed to the

example, victims receive greater recognition under the Promotion of the National Unity and Reconciliation Act (No. 34 of 1995). The Act provides victims with the opportunity to relate their victimisation experience and promotes reparation, rehabilitation and restoration of human and civil dignity of victims of human rights violations (SALC, 1997b:18).

Unfortunate, however, is that victims still play an inferior role in the criminal justice system if compared to services available to offenders. Offenders are provided with legal assistance, recreational activities, health care, training and counselling, while victims are firstly victimised by the offence and secondly by the criminal justice system (Karmen in Schurink, 1991:27). The SALC (1997a:17) also states that, although South Africa is a signatory to the United Nations' *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, insufficient reparation and limited services prevail for victims of crime. Current victim support services are fragmented, uncoordinated, reactive in nature, and to a large extent ineffective (SALC, 1997a:23). Some services, especially those catering for women and children, are over-utilised, while others are inaccessible due to their location and poor marketing. Many victims go unsupported, remain traumatised and risk further victimisation. Amongst others, the need for and advantages of victim-centred services amount to the following:

- The provision of support to victims of crime promotes the prevention of secondary victimisation (National Crime Prevention Strategy [NCPS], 1996:65).
- The absence of victim aid is conducive in the cyclical nature of violence and untreated victimisation could result in retributive and/or domestic violence (NCPS, 1996:20).
- Support to the victim of crime should empower victims by means of their active participation in the criminal justice system (NCPS, 1996:65).
- Government has a legal and moral duty to recognise victims of crime throughout the justice system and to consider their interests in the sentencing process (SALC, 1997a:17).
- Victims need to be provided with information, since few have knowledge on legal proceedings and victim rights¹ (SALC, 1997a:18).
- The victim plays a central role in applying the principles of restorative justice where victim-offender mediation and compensation are emphasised (SALC, 1997a:7).

VICTIM SUPPORT SERVICES AND RESTORATIVE JUSTICE

Programmes available to victims of crime are diverse and vary from individual to group strategies, as well as immediate and long-term approaches to intervention and support. Services depend on the nature of the offence, the degree of victimisation and, in case of going on trial, stages within the administration of criminal justice. The following accentuate the nature of immediate and individualised support provided to victims of crime (Schurink, 1991:27-29):

- Social service and referral programmes where victims are directed to both public and private services (e.g. welfare departments, hospitals and mental health clinics) which aim to mend mental and/or physical health.
- Crisis intervention programmes with 24-hour on the spot support to prevent long-term emotional problems.

¹ For example, victims can call for criminal proceedings against an offender even though the attorney-general refuses to prosecute. The fact that this is rarely used in South Africa emphasises victim's lack of knowledge, and matters

- Victim-witness programmes to support and assist victims during different phases of the criminal justice process (transportation and court escorts, amongst others, are provided to ensure the victim's commitment and co-operation during legal processing).
- Victim advocacy programmes that empower victims by providing information on legal proceedings and victim rights, while at the same time maintaining personal contact and support.

The victim impact statement is another step in the process of empowering victims of crime. The statement is made by the victim and is presented to the authority responsible for sentencing. It embodies a description of the physical, psychological, social and economical harms suffered, as well as the influence that the offence will have in future. The statement is compiled with the aid of a criminal justice official (e.g. prosecutor, police officer or probation officer) or civil society organisation involved in victim support (SALC, 1997a:12). Although victim impact statements are not formally recognised in South Africa, they ought to be generally admissible at sentencing hearings. These statements would function as a tool to reflect the seriousness of the offence and should be spelled out in legislation (SALC, 1997a:25).

Victim support programmes in which the offender participates embrace the principles of restorative justice. These programmes aim to directly and actively involve the victim in addressing the conflict caused by the offence, compensate them through restitution, while at the same time empowering them and holding offenders responsible for their behaviour (SALC, 1997a:7). An example of restorative programming is reparation that could (Schurink, 1991:28):

- Compel the offender to reimburse the victim for any damages suffered;
- Imply probation or parole in place of other punishment;
- Involve punishment in addition to the court's decision; or
- Constitute of community service or services provided to the victim.

While it is mostly the victim of crime who benefits from reparation programmes, victim-offender mediation aims to reconcile victim and offender by bringing them together to negotiate a settlement (Schurink, 1991:28). Mediation should be promoted in cases where the victim and the offender wish to come to an agreement about future contact and/or where compensation or reconciliation is desired (SALC, 1997a:12). Agreements on restitution can be reached with regard to monetary compensation or community service without face to face contact between the two parties. Still, person to person communication can unease tension and the resolution of conflict takes a humanitarian form. Additionally, it promotes a more satisfactory experience of law practice. Victim-offender mediation forms part of the following measures to promote restorative justice in South Africa (SALC, 1997a:12-13):

- The family group conference during which the offender, the victim and supporters of each draw up a plan for dealing with the former. It is generally accepted that this conference should be used to deal with young offenders and apply instead of prosecution or prior to sentencing. The overall aim of the conference is reparation instead of retribution and provides a greater degree of community control.
- The community youth conference, to which the police or the Children's Court may refer cases. Victim participation is strongly promoted, and the outcomes of the conference involve an apology and/or reparation to the victim or community by means of community work.

THE PROBATION OFFICER'S INVOLVEMENT IN VICTIM SUPPORT

Section 3(d) of the Probation Services Act (No. 116 of 1991) stipulates that the Minister may establish, or cause to be established, programmes aimed at the care and treatment of victims of crime. Additionally, section 4 (e) of the Act states that the powers and duties of probation officers are to include the planning and implementation of programmes referred to in section 3 in general or with regard to specific persons. It therefore follows that treatment programmes aimed at supporting victims of crime are not only confined to the work of social workers, civil society and volunteers, but also apply to the scope and practice of probation officers. Although defined by the Act as part of their duties, a lack of human resources might contribute to the inadequate involvement (or absence) of probation officers in the rendering of victim support services (SALC, 1997a:18).

In the execution of all judicial and administrative processes involving victims of crime, the SALC (1997a:22) states that victims should constantly be informed of their role and the progress, scope and timing of proceedings. Additionally, appropriate phases of legal proceedings should incorporate the views and concerns of victims, and they are to be provided with the necessary assistance throughout the legal process. Furthermore, a victim should be informed about the nature of an offender's sentence and what it entails. In the case of a prison sentence, victims are to be informed about the date of release and in cases where the offender is considered for early release due to good behaviour, the circumstances are to be explained to the victim (SALC, 1997a:12). With these imperatives for victim support in mind, it is envisaged that the probation officer has a predominant informative and supportive role to play during the course of legal proceedings. As such, they are to be equipped with a variety of skills and abilities to work with victims of crime, and knowledge of the following is anticipated:

- The nature of victim support services (i.e. health care, social support and psychological assistance), as well as the referral procedures thereof.
- Working and dealing with victims of crime (i.e. the victim as a source of information, legal proceedings relevant to victims, identifying short and long-term needs, etc.).
- Victim empowerment programmes, their content and implementation, especially with regard to programmes such as victim-offender mediation where the probation officer is to play a pivotal role.
- Promoting community involvement in victim support and empowerment, including the identification and utilisation of community resources in support endeavours.
- The importance of victims of crime in the realisation of restorative justice.
- The rights of victims.

BACKGROUND AND METHODOLOGY

Research regarding the role of probation officers in victim support and empowerment formed part of a study that focused on the training needs of probation officers specialising in the management of young offenders in the Free State. When the opportunity to undertake explorative research among social workers¹ and probation officers in the Free State presented itself, it was taken that, with the current emphasis on victims' rights and empowerment in general, the profession's role in support initiatives deserves assessment and description.

¹ Important is to note that, in the Free State, probation services are almost exclusively provided by social workers (only

In order to inform the research question (i.e. to what extent are probation officers involved in victim support), the study design opted for was predominantly explorative and qualitative in nature, as little is currently known about the profession's participation in support and empowerment endeavours. Toward this end, fifteen social workers, ten senior social workers, nine chief social workers, two probation and two auxiliary probation officers, all in one way or the other involved in probation and young offender services in the Free State, were purposively selected for data gathering purposes. Ten personal (PI) and five group interviews (GI) were conducted with the aid of a semi-structured interview schedule. All interviews were recorded with the aid of a voice recorder, transcribed and qualitatively analysed through a process of content analysis and deduction.

RESEARCH FINDINGS

The frequency of the views and experiences voiced by respondents is provided in addition to direct quotations supportive of the qualitative findings.

Victim support services

Some respondents noted that victim support initiatives in their service areas are neglected, inadequate and urgently needed (PI=3).

“The investigation has certain things to do, the police have certain things to do and the probation officer has certain things to do, and each one waits for the other to provide the service. You have all the information on paper, but still you wait for someone else to do the work”.

A limited number of respondents stated that they cannot, in any form, become involved with victim support services due to a lack of resources (GI=2). Furthermore, it was noted that probation officers' involvement in victim support services depends on the type of crime that has been committed (i.e. serving as a source of information in the case of theft, but providing support to, for example, rape victims) (PI=1; GI=2). Only one respondent noted that victims of crime are referred to appropriate service providers (PI=1). Some respondents indicated that they are involved in the Victim Empowerment Programme (PI=2; GI=3) and are to provide victims with support and counselling services (PI=2; GI=2), services directed at the families of victims (PI=1) and mediation in child abuse cases (PI=1). It was also recorded that protocols and guidelines on how to provide services to victims of crime are needed (PI=1).

Working with victims of crime

While some respondents noted that social workers generally have little contact with victims of crime and that the need exists for them to become more involved (PI=5; GI=5), others indicated that they have no contact with victims at all (PI=2; GI=1).

“Victims should be taken into account, but this seldom happens ... to my shame I have to admit that I seldom work with them” (PI).

“You should also know their side of the story, not only the offender's” (PI).

It was noted that the probation officer's main concern after a crime was committed relates to actions directed toward the offender and not the victim (GI=1). Some respondents stated that they act as a source of information to victims (PI=2; GI=1), while others related not doing so sufficiently (GI=1). It was noted that victims need to be informed about the legal proceedings following an offence (PI=3), why a specific sentence was opted for (PI=2), services available

to them (PI=1; GI=1) and crime prevention (PI=2; GI=1). In contrast to some respondents who sometimes consult victims of crime in the compilation of legal reports (PI=2; GI=1), others never make use of victims as a source of information (GI=1).

“... you write a pre-sentence report and you don't even know the victim” (GI).

Training needs

One respondent stated that few social workers have the skills and knowledge to work with victims of crime (PI=1). Others noted that they avoid any work that involves victims of crime due to insufficient knowledge and training (PI=2).

“Working with victims is such a large gap that we avoid it altogether” (PI).

To this one respondent added by stating that, although he/she has to provide support to the victims of child abuse, he/she is not skilled therein (PI=1).

“You will just do it ... though you are not very skilled” (PI).

With probation officers' involvement in the Victim Empowerment Programme, it became evident that training is required to provide support services. During one group interview it was indicated that one of their duties is to identify shortcomings in service delivery. When asked whether they viewed their knowledge and skills to be sufficient in this regard, one respondent replied:

“Maybe not, now that you say it” (GI).

It was noted that training on how to promote and undertake restorative justice (i.e. mediation programmes) is needed, since social workers operating in rural areas do not have access to services provided by the National Institute for Crime Prevention and Rehabilitation of Offenders (NICRO) (PI=1).

“If you know what diversion entails and that restorative justice involves the victim ... and you have a probation officer there who can co-ordinate a family group conference ... this will mean that less cases will go through the formal justice system. This would be the ideal” (PI).

Some respondents stated that specialised training on victim support and empowerment is required (PI=2).

“If you render a service, you focus on the person, the client. You forget about other factors that contributed to him being a victim” (PI).

“I would like to specialise. I'm tired of this little bit of knowledge of this and that. It is dangerous to have little knowledge” (PI).

Specifically, it was indicated that training should consist of the following: how to support and work with victims (PI=9; GI=5), how to identify (PI=2; GI=2) and address different needs experienced by victims (PI=1; GI=1), referral services (PI=1; GI=2), the victim as a source of information (PI=1; GI=1), mediation (PI=2; GI=1) and victims' rights (PI=1). It was also noted that training on victim related matters should be provided at pre-graduate level (PI=1; GI=4). One group of respondents noted that, at the time of their formal training, the current emphasis on the victim of crime did not exist (GI=1). This group also indicated that they received in-service training on victim support.

CONCLUSIONS

The research suggests that, from a social welfare/probation point of view, victim support services in the Free State are neglected, inadequate and urgently needed, and could therefore still be seen as ineffective to a large extent (SALC, 1997a:23). Nonetheless, progress is being made with the establishment of the Victim Empowerment Programme, and it is envisaged that increased focus and scope will prevail for the involvement of probation officers in victim support activities. Heartening is also that, in terms of the Probation Services Act (No. 116 of 1991), some probation officers are extending their duties to accommodate victims of crime, albeit in an informative way only. Still, the data indicates that the profession insufficiently provides support to victims, let alone their families. Although their poor involvement could possibly relate to excessive workloads and inadequate resources, the identified need for training on how to work with victims (PI=9; GI=5) suggests that their lack of support and involvement could be ascribed to inadequate training and knowledge (PI=9; GI=5). It is therefore concluded that, at least to some extent, the insufficient rendering of victim support and empowerment services by probation officers relate more to issues of skills, competencies and training than to a lack of resources. It is thus imperative that in-service victim-centred training be provided to meet the objectives of victim empowerment, and should preferably prevail at pre-graduate level.

Probation officers' involvement in and contribution toward the realisation of restorative justice, specifically regarding crime victims' active participation in relevant judicial processes, is furthermore questioned due to the absence of the profession in working with victims of crime. It therefore follows that diversion options such as reparation and the family group- and community youth conference, where the crime victim plays a pivotal role, are seldom if ever employed. Victims are therefore denied the opportunity to not only voice their experiences and concerns directly or indirectly to the offender through mediation and participation in the judicial process, but they also do not benefit from any of the positive outcomes of restorative justice.

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