

UDK: 343.9

Received: 25. 09. 1996.

Juvenile Restitution in the United States: Bringing »justice« for Victims?

Sudipto Roy and Jeffrey Schrink

Dept. of Criminology, Indiana State University

Summary

In the United States, victim restitution programs are being used for juvenile offenders since the late 1970s. Victim restitution calls for a decision by a criminal/juvenile court and mostly, financial reimbursement made by an offender to his/her victim. The practice of victim restitution is now interwoven into the American juvenile justice system. As originally conceived, the purpose of these programs has been to restore victims to the conditions existent prior to their victimization. The inclusion of these programs in our juvenile justice system might lead the optimistic observer to conclude that victims' right to be recompensed by their offenders is on its way to being well ingrained in the justice process. The contention here is that the outcome of these programs is in conflict with the current philosophy of the American juvenile justice system – to punish, to incarcerate, and possibly, to deter. In this paper, the authors critically assess the practicality of these programs in achieving »justice« for victims.

Key words: victim restitution programs, juvenile offenders, United States

Introduction

Restitution calls for a decision by a criminal/juvenile court and payment by an offender to the victim. As Schafer (1972:26) maintains, »restitution is something an offender does and as it requires effort on his part, it is especially useful in strengthening his feelings of responsibility«.

The practice of restitution through court order is now interwoven into the American juvenile justice system, often alongside other sanctions like probation (Roy, 1995). Victim advocates contend that in case of property crime, the victim's primary interests are recovery and financial reparation. As originally conceived, the purpose of restitutive sentencing has been to restore victims to the conditions existent prior to victimization (Upson, 1987). This is what Friedman (1985) and Zehr (1989) consider to be a sentence that attempts to bring about »justice« for victims. Also, the very act of making restitution payments is assumed to be rehabilitative as well as punitive as the juvenile is forced to make reparation for the harm caused by his criminal act (Finn and Lee, 1987). By using restitutive

sentencing the state seeks to retribution on one side and deterrence and rehabilitation on the other. Consequently, since the late 1970s the use of juvenile restitution has gained remarkable significance in the United States.

Since the late 1970s, a notable development in the American juvenile justice system has been the introduction of victim rights to sentencing process. Victim rights advocates argue that victims have rights, just as offenders have rights. For instance, Margery Fry (1951), a leading British penologist asserts that victims have the right to financial recompense for the crimes they encounter. In the U.S., a number of Acts have been enacted at federal as well as state levels focusing on victim restitution. The inclusion of restitutive sanction in our juvenile justice system might lead the optimistic observer to conclude that the rights of victims are on their way to being well ingrained in the justice process. The contention here is that the sentencing of restitution is in conflict with the current philosophy of the juvenile justice system – to punish, to incarcerate, and possibly, to deter. Hence, the purpose of this article is to take a critical look at the impact