

Feudal System

Following the Battle of Hastings in 1066 William The Conqueror Introduced the Feudal System. Alongside taking ownership of all land and property, he took ownership of all wrongdoing and any person answering for such a deed would answer to him – voila the birth of Crown Vs ?

From that day forward those who committed wrong were no longer answerable to the community they had harmed but to the Crown, with all fines etc falling due to the Crown.

The birth of us turning to an outside locus of control to sort out our problems had begun

Today

Conflicts are generally dealt with by people not affected by the wrongdoing

Home – Parents

Work Places – Management

Recreation – Referees etc

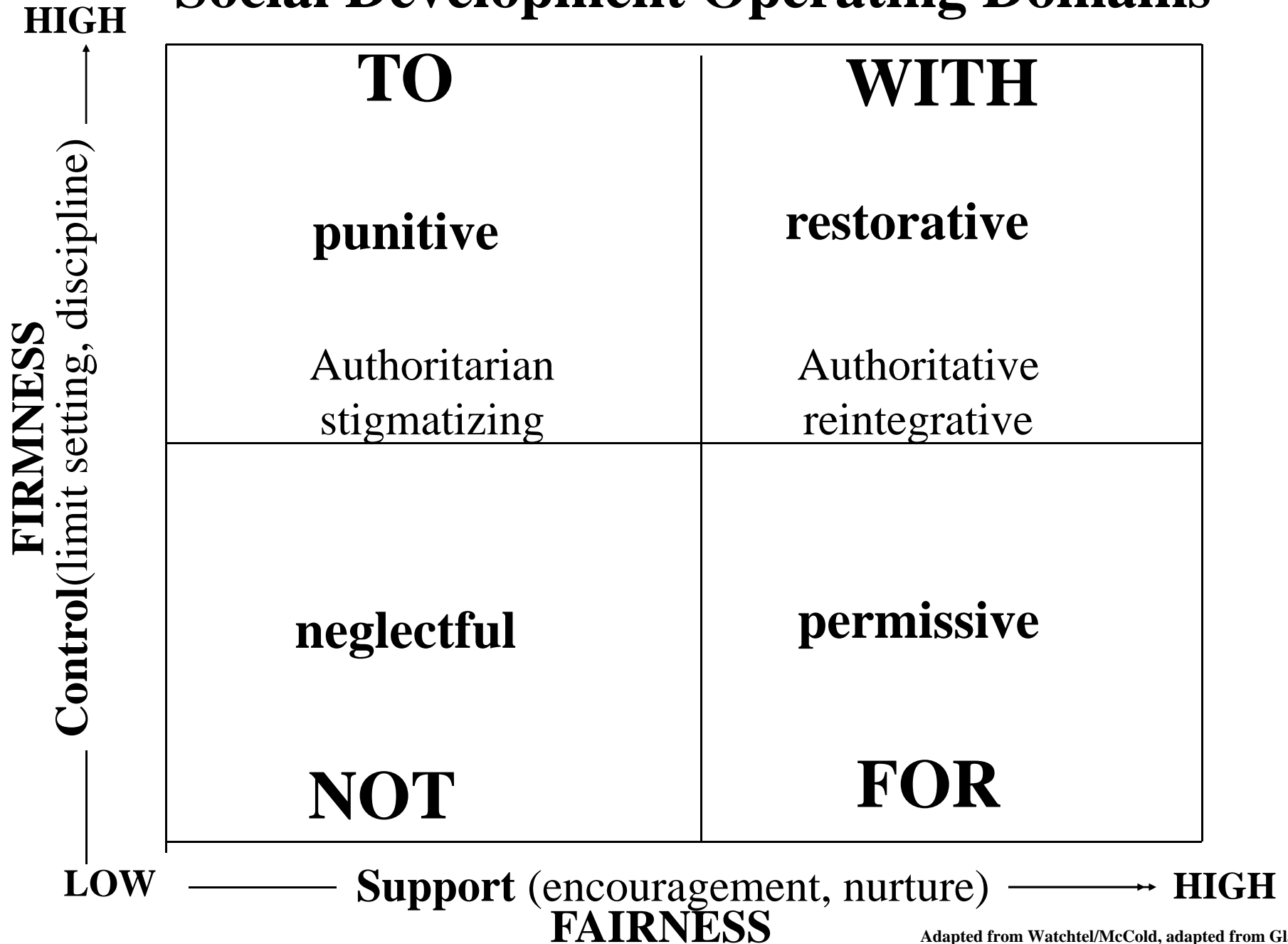
Community – Police

And those affected are generally excluded from the processes that follow (made to endure vs. be held accountable)

Common factors in current responses and the reason they do not work

- ❖ **Punitive sanctions.**
- ❖ **Sanctions often involve exclusionary processes.**
- ❖ **Victim exclusion.**
- ❖ **Destruction of Relationships.**
- ❖ **Do not often allow for responsibility acceptance.**
- ❖ **Stigmatizing.**

Social Development Operating Domains



Restorative Practises Philosophy (I.I.R.P)

Human Beings are happier, more productive and more likely to make positive changes in their behaviour when those in positions of authority do things WITH them, rather than TO them or FOR them. We maintain that the punitive and authoritarian TO mode & the permissive and paternalistic FOR mode are not as effective as the restorative participatory engaging WITH mode.

<u>Traditional Methods</u>	<u>Restorative Processes</u>
Victim is seen as State	Victim is seen as person
Focus on lawbreaking	Focus on harm
Focus on Punishment	Focus on repair
During Hearings, emphasis is on testimony, evidence and procedure	During Hearings, emphasis is on increasing focus on dialogue and understanding
Victim involvement is limited	Victims scope of involvement is varied, and victims choices respected
Service Options are limited, and focus more on completion of tasks	Service options for offenders are varied, related to their strength and will be chosen as reparation to affected person/s
Sentences are based on pre-determined factors, related solely to the offence type	restitutions are decided individually, based on guidelines, but incorporating the wishes of the victims, the needs/abilities of the offender and the needs of the community
Outcomes can increase the separation of offenders from the community	Outcomes strengthen relationships between offenders and the community
Programmes are based on procedure	Programmes are based on principles
Training of Court Participants is based upon courtroom operations and procedures	Training of participants includes broader issues, related to conflict resolution, community involvement and problem solving skills

Adversarial

Focus is in the past

Preoccupied with blame

Deterrence linked to punishment

Restorative

Focus in past, present & future

Emphasis on resulting harm

Deterrence linked to relationships and personal accountability

‘For punishment and sanctions to be effective (in changing behaviours), they need to be delivered in a context that provides both meaning and relevance.’

Fair Process

The Central Idea...

‘....individuals are most likely to trust and co-operate freely with systems - whether they themselves win or lose by those systems - when fair process is observed.’

Fair Process

Principle 1

Engagement:

Involving all those affected by conflict/crime in decisions that affect them, by asking for their input so they can tell their story.

Fair Process

Principle 2

Explanation :

Everyone involved and affected should understand why how final decisions are reached. This relates to context and relevance and does not necessitate agreement.

Adapted from Kim & Mauborgne, Harvard Business Review, July – August 1997

Fair Process

Principle 3

Expectation Clarity:

having understood outcomes, new rules are clearly stated, so that those involved fully understand the standards, expectations and penalties/sanctions for failure to honour undertakings.

Adapted from Kim & Mauborgne, Harvard Business Review, July – August 1997