RESTORATIVE JUSTICE IN EDUCATIONAL SETTINGS AND POLICIES: BRIDGING THE EAST AND WEST

Wong, D.S.W and Gavrielides, T.
Restorative Justice for All cic (RJ4All) is an international Non-Governmental Organisation (NGO) with a mission to advance community and social cohesion at the local, national and international levels. Through our programmes, we redistribute power within society using the values and practices of restorative justice.

RJ4All Publications is an independent publisher specialising in social sciences and the publication of cutting-edge research on restorative justice, criminal justice, equality and human rights. RJ4All Publications is the publishing arm of RJ4All, and the publisher of the international, peer reviewed Youth Voice Journal (YVJ™) and the Internet Journal of Restorative Justice (IJRJ™).

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Dr. Gavrielides is the Editor-in-Chief of the International Journal of Human Rights in Healthcare, the Youth Voice Journal and the Internet Journal of Restorative Justice. He has published extensively in the areas of youth justice, crime, antisocial behaviour, victims, human rights, equality and justice.

He is an advisor to the European Commission, and the coordinator of over 50 EU funded projects on violent radicalisation, migration, restorative justice, youth and human rights. He has acted as an advisor to a number of international bodies, governments and NGOs including the Chilean, Uruguayan and British Ministries of Justice, the Mayor of London, the Council of Europe and the British Council in the Middle East. Previously, he was the Human Rights Advisor of the UK’s Ministry of Justice and has also worked as a Researcher at the Centre for the Study of Human Rights of the London School of Economics and Political Science (LSE).

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**KIFF, MARIANNE**

Following many years’ experience as a primary school teacher and senior manager, Marianne Kiff moved across into Initial Teacher Training and Post Graduate Training for Teaching. Working as a programme leader and deliverer of various subjects, she developed considerable interest in the use of restorative approaches to pupil behaviour management in the UK educational system hitherto over-reliant upon simplistic punitive methods. Punitiveness is imbued in the thinking of many school teacher trainees following their own exposure to the prevailing norms of behaviour management in schools. Having attended training in Restorative Approaches and having had success with its adoption in her own practice, this inspired Marianne Kiff to conduct an experiment to see whether trainees’ attitudes towards the punishment norm could be moderated.

Her research gave her the opportunity to examine ancient justice systems from as far afield as Australia amongst the indigenous Aboriginal people and in America and Canada amongst the First Nations communities. There Restorative councils empowered both the perpetrator and the victim of anti-social behaviours to come together to resolve the conflict.

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Hannah Kim is an educator and restorative justice practitioner in South Korea. Since 2008, Hannah has been working as a public school teacher in South Korea. Since 2012, she has applied RJ values to create a restorative classroom culture. She is particularly dedicated to creating an anti-bullying culture in the classroom. Last May, Hannah earned her M.A. in Conflict Transformation with minors in Education from EMU. Her area of interest is in integrating trauma, healing and restorative justice with intersectional lenses for peacebuilding in education. She currently lives in Seoul, coming back to teach English in a public high school in Incheon.

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The Restorative Justice Series is published by RJ4All Publications which is an independent publisher specialising in social sciences and the publication of cutting-edge research on restorative justice, criminal justice, equality and human rights.

RJ4All Publications is the publishing arm of the Restorative Justice for All Institute (Company no: 08684719), and the publisher of the leading international, peer reviewed Internet Journal of Restorative Justice (IJRJ™) and the Youth Voice Journal (YVJ™)

RJ4All Publications is non partisan, but motivated by its values. We aim to advance research, academic rigour and public understanding of social harm, social inequality and alternative ways of restoring peace and crime. Ultimately, we want to affect positive change in society, and have a real-world impact.

All our publications are indexed by EBSCO Information Services and are available to over 170,000 universities and government departments from around the world. They can also be downloaded from www.rj4all.info and Kindle.

RJ4All Publications and our Restorative Justice Series are fully committed to ethical publication practice, and have a strict Publications Ethics Guidelines that we adhere to. RJ4All Publications and its Journals are guided by our Editorial Board and International Advisory Board. Their membership includes some of the most prominent academics, researchers and practitioners in the area that we publish.

Authors interested in publishing their work with RJ4All Publications should get in touch with the Editor-in-Chief, Dr. Gavrielides.
RJ SERIES no 9
Community cohesion through children-led restorative justice art, London: RJ4All Publications.
ISBN 978-1-911634-14-0

This unique e-book presents the results of the children-led project Culture and Art for Unity (CA4U) that was carried out by RJ4All in partnership with Bizzie Bodies from September 2018 until April 2019 giving to 22 children access to art workshops every Friday after school. The project had two objectives in mind. First, to create a fun and educational space for local children who could not afford to attend art classes outside of school, increasing in this way not only their skills, but also their awareness around issues of equality. They were mixed with children of different backgrounds, races, socio economic status and abilities. The second objective was to use their work to get local people to talk. Indeed, one of the key principles of restorative justice is dialogue. Something as innocent and as creative as our children's art became the best prompt for getting parents, teachers, policy makers and local organisations to talk.

RJ SERIES no 8

This e-book is part of the RJ4All Restorative Justice Series. It also forms part of the RJ4All's accredited e-course «Safeguarding and Empowering Victims»
This training manual aims to provide assistance to crime victims and practitioners focusing on safeguards and best practice when implementing restorative justice.
This training handbook has been designed with the following target groups in mind independently of their location. The manual uses the Victims' Directive (Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA) as its legal and theoretical framework for achieving its objectives.
The manual includes information on the rights of the victim, a definition of restorative justice, case studies illustrating safeguarding issues and a victim assessment guide.

RJ SERIES no 7
ISBN 978-1-911634-08-9

At RJ4All, we strive for a more cohesive society by distributing power through educational activities, awareness raising and user-led projects. This e-book is the result of our latest "Restorative Art through children's eyes project" leading to a unique exhibition, led by our children. The project falls within our wider partnership programme with local art club, Bizzie Bodies, titled "Culture and Art for Unity" and is supported by Southwark Council as part of Black History Month. The project is founded upon the belief that culture and art can bring people together and encourage community cohesion. We use restorative justice values such as equality, involvement in decision making, inclusion and empowerment, to support our children to lead on the art creation, and through their work increase cultural awareness.

RJ SERIES no 6

Edited by two leading restorative justice scholars from the West and East, this unique book bridges a gap in the literature by bringing together new evidence on the application of restorative practices in educational settings. The book has two aims. First, it builds a bridge between the restorative justice world in the East with that of the West. The volume demonstrates how similar the theoretical and practical experiences are in the two sides of the world. It presents us with evidence of what works in policy, research and practice and allows us to make comparisons for the future. Secondly, the book challenges restorative justice which is often seen through the narrow lenses of the criminal justice system.

"It is arrogant indeed to think that schools in the west have all the answers and we are somehow more advanced in our thinking and practice. The scope of the chapters in this book travails many of the issues that face schools and systems everywhere. This book is highly recommended for anyone practicing, studying or legislating restorative justice in educational settings. Restorative practice is who we are, not what we do!" Margaret Thorsborne, Restorative practitioner, trainer, facilitator and author.
Restorative justice was brought back into the modern world of policy, research and practice in response to a growing disappointment from our criminal justice systems especially in relation to how it treats vulnerable groups such as those experiencing discrimination due to their race, gender, age etc. Therefore, it is surprising why equality hasn't featured more prominently in the restorative justice discourse. This is what the Editor calls the ‘paradox of restorative justice’, and the battle field where the future of restorative justice will be fought.

This edited collection of papers written by leading equality and restorative justice scholars aims to bring to the restorative justice debate a new dimension that is yet to be explored in its own right. This refers to issues surrounding equality and restorative justice both at the normative and empirical levels. Through an evidence-based approach, case studies from around the world are presented to develop a narrative and a practical tool for considering equality matters when applying or thinking about restorative justice. Particular emphasis was given on gender and domestic violence, Indigenous peoples, gender equality and prisoners.

“This is an important and timely collection... It traverses a great diversity of specific and crucial issues from restorative practices in prisons to deinstitutionalising the stigma of criminal conviction.

Perhaps the single most impressive feature that distinguishes this collection from others on restorative justice is that it corrects the usual focus on North America, Western Europe and the Antipodes with learnings from Central and Southern Europe. Many of these Central European and Mediterranean lessons are profound ones that can greatly enrich the predominantly North Atlantic restorative debate. Professor John Braithwaite, Australian National University.
This e-book presents findings of an evaluation of restorative justice in prison settings. The findings are based on an independent evaluation that was carried out by qualified researchers using a mixture of quantitative and qualitative research. The quantitative research was carried out over a specified timeframe and with financial support from the Cabinet Office. The research was conducted between 1 November 2013 – 1 July 2015 (20 months). During the research period, the Silence the Violence programme was delivered to 162 participants in total. Milestones was delivered to 61 offenders, who were released from HMP & YOI Isis, HMP Winchester and HMP Forest Bank. An additional 45 offenders were mentored by partner organisations under contract to Khulisa. However, useable data was only secured for 40 Milestones participants giving us a total final research sample of 194 participants.

The death of Nelson Mandela in December 2013 closed an active year for restorative justice. His life was a symbol of restoration and promise and continues to stir interest and discussion in the search for an alternative to incarceration and towards peaceful conflict resolution. This book looks at restorative justice in context of two countries, the United Kingdom and South Africa, as they independently try to navigate between past, present and future justice systems. There is reference to the cultural, political and socio-economic landscapes of each nation. Our understanding of justice is symbolic of these landscapes and a mapping exercise is undertaken, with a discussion of enablers and barriers for the restorative justice movement internationally.

The book also discusses the ownership of restorative justice and the role of non-governmental bodies such as Khulisa. A key to the restorative justice process is a balance of stakeholder involvement between state and community enterprise. It is important to examine and highlight the importance of these bodies in the continuing and increased commentary on the restorative justice process. Subsequently, this book offers a timely and much needed discussion regarding our careful future steps in the shadow of legendary voices.

"As we investigate how best to lend our knowledge and expertise to the development of Restorative Justice in the UK, we commissioned RJ4All to carry out an analysis and assessment of the growth in restorative justice policy and practice in each country. We are grateful for the depth and breadth of the analysis undertaken by RJ4All and the recommendations they put forward. It is our hope that we can implement much of what they suggest through open and sincere collaborations with a multitude of partners, funders and commissioners already active in their communities". Simon Fulford, CEO of Khulisa
I was completely delighted to be granted an early opportunity to read the chapters in this book, the purpose of which is to bridge the knowledge gap that exists around what schools in other countries are doing with this approach to problem solving.

As the co-editors and authors, Theo Gavrielides and Dennis Wong suggest, it is arrogant indeed to think that schools in the west have all the answers and we are somehow more advanced in our thinking and practice. We have so much to learn from each other in a field that is still in its early years and is developing in so many different contexts. At a personal level, having co-authored a book on implementation of restorative practice in schools (Blood and Thorsborne, 2013), we were astonished to be sent copies of the book that had been translated into Korean! This was a big signal to me that there was far more going on in RJ in education than I knew about in my own familiar patches and networks.

The scope of the chapters in this book travails many of the issues that face schools and systems everywhere. Some schools, their systems and nations are slower than others in adopting restorative approaches to problem-solving – it’s too challenging to the status quo. This is not a criticism, but rather a reflection on what we know about the adoption of innovation and the various categories and characteristics of adoptees (Everett, 1995). I was also interested, but not surprised, to read that the struggles to innovate, to change hearts and minds of systems and practitioners, are so very similar no matter which country. Born of need (too much violence, too much bullying, too much family violence and trauma to name a few), innovators emerge out of those very systems to find ways to more effectively respond to these universal problems. Added to these challenging issues that plague some schools in some settings, we have a generation of young people who are no longer compliant, just because the adult would wish it so! More relational approaches, that engage in a genuine way with young people, are more likely to have a positive impact on brain development, and our systems must, to adapt to these rising challenges, re-think behavior management and focus perhaps on behavior development. Restorative practice is who we are, not what we do.

I have been heartened by the stories and efforts of academics, practitioners and system change agents - how they are slowly changing the way individuals and systems function. Our young people are inheriting a world that is sometimes very frightening – too much violence, too much hate, too much “othering”, too much poverty and disadvantage. It’s through the collective effort of our schools worldwide, that we can hope to prepare them for the job of creating a peaceful and safe global community, to make a real difference in how they problem-solve. It may be too late to reach and influence some of our leaders, politicians, parents, employers, colleagues and friends, but our schools, quite possibly, are the best place for the culture change that we yearn for – after all, all our children go to school in the years when their brains are so plastic and we can do our best relational work.
INTRODUCTION, IMPETUS AND STRUCTURE OF THE BOOK

BRIDGING THE WEST AND THE EAST

Theo Gavrielides and Dennis Wong

REFLECTIONS FROM THE WEST: THEO GAVRIELIDES

There can be no doubt that restorative justice has grown into becoming a global movement. It is legislated at national and international levels, and funded through small and large-scale programmes independently of location. What has been particularly impressive is the literature on restorative justice, which continues to grow, reflecting the passions of many researchers to report on its theoretical and practical achievements.

So, why another book on restorative justice? The unique contribution of this edited collection is twofold. Firstly, it aims to build a bridge between the restorative justice world in the East with that of the West. Despite the many articles, books and commentaries on restorative justice, a huge gap remains in bringing knowledge from these two sides of world. The consequences of this failure are multiple including Western scholars and newcomers to restorative justice believing that the concept owes its existence and development to the West. As this volume demonstrates, this is far from true. Persian, Asian and Hindu civilisations are far more rooted in history and restorative culture, than some modern Western traditions of justice. But this book is not about competing who owns restorative justice. In fact, its aims are rather opposite. The volume demonstrates how similar the theoretical and practical experiences are in the two sides of the world. It also presents us with evidence of what works in policy, research and practice, allowing us to make comparisons for the future.

This primary book objective is also reflected in the background and experiences of the two editors. We have both served restorative justice in various contexts and for many years. Despite knowing each other through our writings, we had never met. Strangely enough and without planning, our paths met in Tehran where the 2nd bi-annual Symposium on Restorative Justice was held. This international event was titled “Restorative Justice as a Bridge between the Silk Road Civilisation” and just like the days of the old it aimed to create a crossroad for dialogue between cultures, religions, as well as justice systems. And this is where our own first dialogue on bridging our restorative justice civilisations first happened.

Secondly, the book aims to challenge restorative justice which is often seen through the narrow lenses of the criminal justice system. Our joint experience has taught us that probably the biggest contribution of restorative justice lies in its educational abilities. As its rehabilitative and healing attributes are hard to manifest and are indeed scant, its preventative and teaching potential are considerable. And yet, there is very little on the practices and theories that can bring these potentials to the front. Therefore, it made sense for Restorative Justice for All (RJ4All), the international NGO that hosts RJ4All Publications, the publisher of this book, to develop a project that would look at the educational side of restorative justice. RJ4All's strapline is after all “Redistributing Power through Education”.

We believe that it is time for restorative justice to engage, energise and use disciplines it has never reached. In fact, we hope that restorative justice benefits from an inter-disciplinary dialogue that can take the best features and learnings from an array of fields while not losing sight from its original intention of truly empowering those it aims to reach. Consequently, this book brings together criminology, sociology, political sciences and human rights, psychology, teachers, practitioners and social workers to open new paths for restorative justice.

The book is introduced by Margaret Thorsborne, an international expert in restorative justice in educational settings. We then divided the various contributions into two sections. The first brings together four chapters from the West. Chapter 1 by Mark Tsagas looks at child sexual abuse especially within the context of institutions dedicated to learning
and education (e.g. by authority figures such as teachers, coaches, spiritual and religious leaders, as well as their support staff).

Tsagas reviews past and present cases of sexual abuse inflicted upon minors in educational settings. He then critically analyses the system’s current approach in dealing with such criminal acts. He argues that while the incarceration and subsequent rehabilitation of the offender may be key to the process, it alone will not always offer the necessary closure to the victim. He uses evidence from the 10-year project carried out by restorative RJ4All on Child Sexual Abuse in the Catholic Church\(^1\), to argue that restorative justice can be a viable and healthy alternative method for dealing with such cases, subject to their severity, due to the benefits it may have on restoring the harm done to child victims.

Chapter 2 by Sara Natividate and Giorgia Varvello looks at the potential of restorative justice in preventing youth violent radicalisation in educational settings. They argue that young people can be part of the solution. In fact, a restorative approach could be an effective strategy when dealing with such complex phenomena. They use a case study approach combined with a critical review of the extant literature to argue that a sociological approach to the issue of youth radicalisation opens the door for a restorative justice dialogue that can prevent and indeed heal.

Chapter 3 by Marianne Kiff presents original evidence that she collected with a group of post graduate students in the UK. Her researched aimed to establish whether and to what effect, training in restorative approaches could have on attitudes towards behaviour management. Her results demonstrated there was a substantial and statistically significant shift from punitive to restorative attitudes. She argues that encouraging teachers to think restoratively may not only improve behaviour management, but also instil restorative thinking in school pupils so that they grow up thinking less that punishment is always and only appropriate response to bad behaviour in society at large.

Chapter 4 by Beata Czarnecka-Dzialuk looks at the application of restorative justice in Polish schools. Evidence is presented of teaching children and youngsters how to repair or redress damage. Their evidence is drawn from the Polish Mediation Centre and a project implemented in the city of Gdańsk area. They conclude with recommendations in introducing mediation among children and young people as a fundamental social competence.

**REFLECTIONS FROM THE EAST: DENNIS WONG**

With the flourishment of restorative justice in Western jurisdictions for over twenty years (Braithwaite 2002; Johnstone 2002; Van Ness and Strong 2006; Umbreit, Vog, Coates and Lightfoot, 2006; Gavrielides 2007; 2018), we are now certain that restorative justice is not about establishing a pile of new rules and guidelines for law enforcers. Restorative justice is not limited to be used, for criminal matters or, in criminal justice setting. Restorative justice is not restricted to highly trained professionals only. Restorative justice, as you can see in this book, is highly flexible in programme innovation and practices for use in a wide range of situations, including in student discipline, offender counselling, and reintegration of wrongdoers or offenders into society but at the same time repairing harm done to victims and community. We are particularly delighted to see examples of restorative justice or sometimes called restorative practices (RP) from the East.

Authors from different fields, including teachers, lawyers, social workers, lecturers and professors, share their personal path to encountering restorative justice, and how they endeavour to promote and implement restorative justice in the educational settings. Their experiences are extremely valuable for restorative justice development and their sharing definitely add values to the current restorative justice literature which are predominantly generated from the West.

In reading the chapters from the East, readers may need to be aware that most of the authors are not native English or native American. English is not their mother tongue or common daily language. In other words, concepts of restorative justice or RP from the East have to be interpreted differently based on their cultural contexts (Liu and Palermo, 2009). Noronha (2002) in studying culture-level values across nations found that East Asian nations were found to have high levels of hierarchy and conservatism, favouring role obligations and maintenance of traditional order, whereas Western European nations exhibited opposite qualities. Similarly, Schwartz (2006) also discovers that Confucian-influenced cultures place a greater emphasis on embeddedness than all American and European cultures, prioritising hierarchy and mastery and placing less emphasis on egalitarianism, harmony, and autonomy. The wordings which represent “restorative justice” in their own language often denotes a deeper sense of meaning from the surface (Wong, 2014; 2016).

Chapter 5 by Ahn Eunkyung shows an adaption of restorative justice principles for resolving school violence. The chapter describes the process about how peacebuilders in South Korea drew upon insights from restorative justice and integrated its theory and methods in the field of student discipline in Korean schools. Instead of adopting harsh

\(^1\) See https://www.rj4all.info/rjabuse (accessed March 2019)
punishment, teachers are willing to use Restorative Circles at school for resolving conflicts after learning from the restorative justice practices. With the support of innovative programs developed by various NGOs in South Korea, positive education culture emphasising on using restorative practices for tackling disciplinary issues is gradually seen. Restorative justice becomes an important tool for changing educational culture in South Korea.

In Chapter 6, two lawyers, Debarati Halder and Amol Shetty, advocate the integration of therapeutic justice and restorative justice for regulating road traffic violation - especially for India’s young generation. They assert that therapeutic justice could be taught in Law schools in India. Such movement would provide a good example in future law reform as well as rejuvenation of legal practices. Like other Eastern traditions, restorative justice concepts are deeply rooted in its cultural traditions in India. Nevertheless, contemporary legal practices tend to over-emphasise on offender punishment and thus neglect about the victim’s needs. Integrating restorative justice and therapeutic justice for handling road traffic related offences could ensure the criminal justice system in India fulfilling its dual obligations – upholding victims’ rights and taking offenders accountable. With examples illustrating recent works done by several Law schools’, readers may be able to grasp how restorative justice be promoted in the tertiary education setting in India.

In Chapter 7, Hannah Kim and Jae Young Lee attempt to point out the theoretical and historical context underlying the emergence of Restorative Discipline (RD) approach in South Korea. In response to the banning of corporal punishment among schools, RD has been one of the useful alternatives to harsh discipline since 2015. Based on results of 10 in-depth interviews of Korean educators, the chapter describes how RD stands out as an effective measure for treating students’ misbehaviour in classroom and discusses challenges facing future development of restorative justice in South Korea.

The topic covered in Chapter 8 by Michelle Rooney, Miranda Forsyth, Dora Kuir-Ayius and Mary Aisiis is about how restorative justice could halt cycles of family violence for some problematic students in the City of Lae, Papua New Guinea (PNG). With a critical analysis of socio-economic and political backgrounds of PNG, the chapter points out that many women were victims of physical and psychological abuses at home. Under such situations, children of abused women are often at high risk of engaging in delinquency. Unfortunately, schools tended to adopt punitive measures and excluded those students who are already suffering from multiple family and social problems. The authors, based on their recent research, discusses some newly developed restorative justice initiatives for including instead of excluding problematic students. Their chapter will also uncover the successful factors and challenges behind such a new move.

Chapters 9 and 10 are about stories of restorative justice development in two affluent cities – Singapore and Hong Kong. Chapter 9 offers step-by-step description of the historical development of restorative justice development, firstly in criminal justice system and subsequently in educational setting. Restorative justice is adopted in education sector in the form of RP in Singapore. RP was first piloted in Singapore schools in 2005 with the hope of developing restorative schools across the territory. Nevertheless, such a dream has not come true according to the author of this chapter, Katherine Kwan - a social work professional. This chapter discerns reasons behind a lack of traction of RP and discusses possible ways for promoting the use if RP across schools in Singapore. Similarly, Chapter 10 by two academics Wendy Lui and Dennis Wong, also focuses on the rise and fall of restorative justice development. Restorative justice and mediation practices have once developed rapidly in Hong Kong in mid 2000s, under the auspices of the police diversionary scheme for young people. The use of restorative justice, for dealing with misbehaved students or school bullying, has also increased during the initial period of development. Despite this growth, no formal juvenile justice legislation has ever been enacted in Hong Kong as discerned by the authors. With a sharp decrease in crime rate in recent years, the development of restorative justice was seemingly gloomy. The authors, based on their recent research, explore into the reasons for the fall of restorative justice, especially in relation to its practice. With recent endeavours of rejuvenation of RP in primary and secondary schools, this chapter analyses the power of using multi-disciplinary education which may bring about a change to the development of restorative justice in Hong Kong.

Approaching the end of this book, Rick Sarre, a renowned Australian criminologist, recalls more of its history about restorative justice education in ancient and modern Christian Theology. Chapter 10 highlights how Christianity has championed restorative themes in its two thousand years of history. With examples of restorative justice practices in schools and universities established by Christian churches, Rick Sarre critically examine how Christianity continues to inform restorative practices in the educational settings and maintain a capacity to empower as well as enliven modern-day restorative justice education in both the East and the West.

To conclude, the beauty of restorative justice is its adaptability and applicability to different settings and cultures. As restorative justice is a new way of thinking about wrongdoings, forgiveness, reparation and restoration of human relationships, as far as we can stick to the basic principles for implementing restorative justice, healing and repair harm done is not unreachable (Braithwaite and Zhang, 2017; Van Wormer and Walker, 2013; Zehr, 1990). As we have
see from the above chapters, the research and writings on restorative justice initiatives and struggles, from both the West and East, are of great significance in filling the missing pieces of a culturally valid theory of restorative justice. This is especially true for the communities where “whiteism”, patriarchy, and pecking order are deeply rooted.
REFERENCES


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PART I: LESSONS AND EXPERIENCES FROM THE WEST
RESTORATIVE JUSTICE: COMBATING CHILD SEXUAL ABUSE IN EDUCATIONAL SETTINGS

Author: Mark Tsagas

ABSTRACT

The topic at hand is one of a sensitive nature, but not just because it involves children. Sexual abuse of any kind between individuals, regardless of age, ethnicity and gender, can and often does have serious repercussions on the abused in how they live their day-to-day lives.

Specifically, as attested to by literature, the damage can range from physical, sexual and reproductive to psychological and behavioural in nature. However, such abuse can result in the affliction of even greater psychological harm when the abuser is an intrafamilial and the afflicted is a minor.

With this information in mind, it is perfectly understandable for someone to have the mindset that Restorative Justice would just not be viable in such instances of abuse. This fact is further re-enforced by just how egregious such a betrayal of trust can be. However, can possible exceptions to this rule exist, that would allow Restorative Justice to function as a viable alternative? If so, what are they and can they be justified? In order to answer such questions, this chapter will attempt to do an overview of various elements related to these crimes. Subsequently and via a comparative analysis to Restorative Justice, it will identify if such a method of dealing with crimes can be applied, in any way, to such abhorrent acts involving minors in educational settings.

1. METHODOLOGY AND STRUCTURE

This chapter intends to answer questions surrounding the matter of Sexual Abuse of Minors in Educational Institutions and whether Restorative Justice can be implemented as an effective solution to combatting such crimes. Qualitative research methods will be used primarily. Specifically, via such exploratory examination, the chapter will identify the core elements of child sexual abuse that occurs in educational settings and restorative justice. At an initial stage, the terms will be defined and explored independent of each other. This will allow the reader to explore their full applicable range, outside of the limitations of any particular construct. It is only after the terms have been defined, that they will be observed in tandem.

There are of course existing concerns regarding the cohesiveness of the two concepts. As such, the debate surrounding their potential partnership will be echoed, to allow the readers to familiarise themselves with any possible dissenting opinions, before the chapter advocates for any Restorative Justice solutions to the crime of child sexual abuse. Restorative justice and pre-emptive methods used in both Western and Eastern civilisations will be reviewed. No matter the country, the safeguarding of children is often a top priority and as such kernels of wisdom will undoubtedly exist in the farthest corners of the globe. It is submitted that, only by understanding the limitations of current internationally existing systems and consolidating their weaknesses, whether they originate from the West or East, that a viable solution to sexual abuse of minors in educational settings can be identified.

2. DEFINING TERMS

When trying to reach a conclusion regarding any research topic, particularly when legal elements are involved, it is imperative that a series of definitions are set in place. These will ease readers into understanding how such elements function independently but perhaps more importantly twixt each other.

2.1 CHILD SEXUAL ABUSE (CSA)

The UK Government has created a general definition of Child Sexual Abuse for the United Kingdom that reads as follows:
“It is the act of forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, including assault by penetration (for example, rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing. They may also include non-contact activities, such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways or grooming a child in preparation for abuse (including via the internet). Sexual abuse is not solely perpetrated by adult males. Women can also commit acts of sexual abuse, as can other children.” (McNeish & Scott, 2018)

It becomes immediately evident, despite its lengthy form, that the core of this definition is comprised of two key elements. Essentially, that the act of enticement does:

- not need to involve high levels of violence or force and that the child does not need to be aware of the predicament they are in.

Apart from the key primary elements specified above, the definition provided by the Ministry of Education proceeded to include additional factual elements of merit. This was primarily done due to a significant uptick in the reporting of Child Sexual Abuse committed by child grooming gangs found to be operating in areas of the United Kingdom, such as Rotherham, Rochdale, Oxford, Bristol, Peterborough, Newcastle and Huddersfield. Additionally, recent controversies involving Child Sexual Abuse and the Catholic Church have come to light and it has even been reported that further Sexual Abuse of Children was allegedly committed by Members of the UK Parliament.

While only a first step, such a detailed definition could be construed as an initial response to the matter. By setting out and detailing the specifics of the legal framework, the government thereby removes any and all ambiguity with regard to such crimes and ensures that any and all perpetrators do not avoid conviction based on mere technicalities.

2.2 INTRAFAMILIAL CHILD SEXUAL ABUSE (ICSA)

It is worthy of note that, while the aforementioned general definition exists, there is no single agreed upon definition for intrafamilial child sexual abuse. But why is this the case? Most commonly it has to do with the ‘intr familial’ element of the term. Its traditional definition denotes of something occurring within a family. In essence, an act by a family member done to another member of the same family. However, with regard to Child Sexual Abuse, the definition of the term seems to have shifted. An important question to ask in such cases, when determining if intrafamilial abuse did in fact take place is, “Did the perpetrator feel like family to the child?” (McNeish & Scott, 2018).

Asking this specific question, has led to a consensus being formed, which states that in addition to abuse by a relative, prime example of which would be a parent, the term may also include abuse by someone close to the child in other ways (McNeish & Scott, 2018). Teachers, especially those that have an active role in interacting with students, might in fact develop such close bonds with their pupils, which have the potential to be deemed as intrafamilial.

2.3 RESTORATIVE JUSTICE (RJ)

While undoubtedly covered in previous chapters of the publication at hand, it is almost necessary to define again, due to the nature of these crimes. Only by truly understanding the ethos of Restorative Justice can one advocate for its widespread application.

It should be noted that Restorative Justice has been defined in many ways by a plethora of academics and scholars. While slight differences can be detected among definitions, the core essence of the process remains intact. Specifically, the principles of Restorative Justice are:

- that it is a participatory process with the active involvement of the parties who were most directly affected by the harm, consensual democratic decision-making, victim empowerment, dialogue, storytelling, narrative, and respectful and active listening – allow the victim to actually have their voice heard and not minimised, a deep sense of personal accountability derived from the abuser and reparation of harm. (Freeman & Bolitho, 2016)

However, for the purposes of this chapter, the definition set out below appears to be the best suited. While it still very much reflects the key principles set out above, the reason for its selection is due to its wording, that denotes a sense of flexibility in its application. Essentially:

“Restorative Justice is an ethos with practical goals, among which is to restore harm by including affected parties in a (direct or indirect) encounter and a process of understanding through voluntary and honest dialogue. Restorative justice adopts a fresh approach to conflicts and their control, retaining at the same time certain re-
Much like the definition of Child Sexual Abuse, this definition of Restorative Justice is also comprised of several key elements. Namely, that it aims to restore the harm done, through direct or indirect encounters, something that can only be accomplished through voluntary and honest dialogue. Yet, even though it states that the restoration of harm should be achieved through dialogue, the method of application is left blank. This is an important distinction that will play a significant role later on in the chapter. It is only when the restorative justice process is afforded the freedom to adapt to the particulars of a crime, that its positive effects can really take root. Otherwise, if applied rigidly, it could end up mimicking the criminal justice system that does not have the primary aim of restoring harm to the victim.

2.4 SUMMARY

Defining these terms seemed like a relatively simple endeavour. Yet, it is reasonable for individuals to question why it was even necessary to begin with. Setting aside the notion that the legal system operates based on a series of definitions, the act of defining these terms in this chapter has assisted us in pinpointing specific key elements contained within the meaning of each term. In turn, when trying to fuse two concepts together, as we are attempting to do in this chapter by advocating for the use of Restorative Justice in school based Intrafamilial Child Sexual Abuse as the principle method of restoring harm to the victim, it would streamline the procedure. Essentially, these definitions have set the groundwork and will allow researchers to quickly identify what elements are incompatible and thus re-evaluate their present approach to the process of restoring harm to the victim.

3. RESTORATIVE JUSTICE: INCOMPATIBILITY WITH SERIOUS CRIMES

As suggested by the section above, it would seem that, due to key elements of both Child Sexual Abuse and Restorative Justice, Restorative Justice alone may be ill-equipped to deal with the severity and the gravity of these crimes against minors. When one looks at the definition provided for Child Sexual Abuse, it is notable that the minor does not have to be aware of the abuse. As a result, when applying the ethos of Restorative Justice to a case involving Child Sexual Abuse, that advocates for honest dialogue, it does not appear that the dialogue element can be satisfied, especially when the young victim may have not comprehended that any sort of abuse was occurring.

Furthermore, when one reviews the behaviours typically associated with persistent sexual abusers of minors, it becomes apparent that their participation in such abhorrent acts, is done with very little empathy for their victims (Hanson, 2006). This fact is attested to by their methods of operation and by the consensus that the lack of empathy actually plays a significant role in the perpetration of sexual offences (San, 2006). While the sexual abuse can happen quite abruptly, it is often preceded by a period of ‘grooming’, when the abuser slowly implements a regiment of attention-giving and nonsexual touching before escalating to increasingly more intimate behaviours (Smallbone, 2013). Although it should be noted that lack of empathy is not a signal trait of all abusers (Hanson, 2006), such behaviours call into question an abuser’s ability to be honest and genuine in his or her responses during the Restorative Justice process. Considering abusers’ lengthy involvement with minors, their position of authority within an academic institution itself, as well as their prolonged and secretive (Smallbone, 2013) methods of abusive practices, one can only wonder if their victims would be able to extract anything from the restorative process, that would restore the harm inflicted upon them. Of course, every case is different and will need to be examined based on the facts at hand. However, if the majority of abusers experience a general lack of remorse and empathy, then the overall effectiveness of Restorative Justice deteriorates drastically.

3.1 THE INCOMPATIBILITY DEBATE

In the introduction to this chapter, it was stated that it would be logical for someone to question if Restorative Justice could indeed be applied to such crimes involving minors. This sentiment has indeed been echoed in previous research.

The general view exists that victims of sexual violence and children in particular, are more vulnerable than victims of other types of crime (Hermstad, 2019). As such, health professionals fear that restorative justice meetings, between the victim and the offender, could lead to re-traumatisation of the victim due to the power imbalance that existed between the two at the time of the offence (Hermstad, 2019). The true danger of additional trauma to the victim is illustrated in sections below and due to its extensive implications as evidenced in paragraph 5.2, such a fear should exist at the forefront of any conversation on this matter. Furthermore, if restorative justice is viewed as an easy alternative to escaping prosecution, discussions would inevitably arise questioning its viability (Hermstad, 2019). Additionally, a con-
cern that is of particular prevalence in educational settings is the disparity in age and maturity between the abuser and the victim. Of course, it has been suggested that such issues can be fixed through the use of an experienced mediator. However, even that prospect raises further concerns on how children’s voices could potentially be minimised by a room full of adults (Gal, 2011), thus simply mimicking the existing courtroom process. All these questions, feed into the fear that restorative justice processes run the risk of potential further harm occurring to the victim, something that could realistically transpire at the hands of the perpetrator reoffending during the restorative procedure (Hermstad, 2019).

Yet, we should be wise to remember that the topic of application of Restorative Justice to cases involving Child Sexual Abuse is still being debated. As such, alongside dissenting opinions, there are those that indeed advocate for its application to such crimes. Unlike typical criminal justice processes, a victim’s perspective is central in restorative justice. As a result, the process actually makes it possible to meet the specific needs of victims, including those that are in a vulnerable position, children being a prime example (Gal, 2011). Furthermore, the flexibility that characterises the restorative justice process, in stark contrast to the rigidity of a pure criminal justice system approach, would allow children to participate in the process in ways befitting their age and mental capacity (Gal, 2011). It is for this reason, that the more fluid definition of the ethos found in paragraph 2.3 was settled upon. The flexibility in the definition will in turn allow for flexible and widespread application in practice. As a result, with their participation in the restorative practice it could help the victims gain a sense of control back into their lives, an element that was once stripped from them by their abuser will now enable the healing process (Gal, 2011). Furthermore, as the procedure will allow and advocate for the victim’s family and friends to be in attendance, issues such as self-blame, shame and loss of power could slowly dissipate as the strong ties of trust should strengthen the confidence of the victim (Gal, 2011). It is in fact quite possible that, through the voicing of the abuse endured by the victim, a chain reaction could be triggered that might even lead to the abuser expressing remorse towards the abused. Cases have shown that restorative justice practises can produce positive outcomes for victims of sexual abuse (Gal, 2011). However, it should be noted that the results achieved in real situations have not approached the idealised positive outcomes suggested in this paragraph.

Nevertheless, until the debate is concluded we must be wary and weigh the options. Some scholars may believe that no crime is too serious to be handled by restorative justice (Hermstad, 2019). Others may reject the notion simply because the risks mentioned above are construed as too great. Whatever the case may be, one should neither fully endorse nor disparage restorative justice practices in responding to sexualised abuse against minors in educational settings (Daly, 2001). A generic position is potentially premature and ill-advised and as such (Daly, 2001), the process will need to be tailored specifically to the crime at hand.

4. LEGAL PROTECTION OF MINORS IN EDUCATIONAL SETTINGS

Before we proceed to the practical applications of Restorative Justice, it is necessary to examine how exactly a minor is defined in relation to educational settings and why this issue needs to be addressed.

4.1 AGE OF CONSENT

In a legal context, the term minor is quite broad as it varies from jurisdiction to jurisdiction and country to country. Additionally, the term encompasses various sub-terms in relation to age that describe a multitude of different capacities such as Age of Capacity, Age of Majority, Age of Consent and Age of Reason (Garner, 2001). The term age of consent, which as stated above is a variable contingent on the laws of each country but for the purposes of this chapter we will use the general UK standard of 16, denotes the age when one is capable of agreeing to sexual intercourse and other similar acts (Garner, 2001). This means that any sexual act, be it direct or indirect, towards a minor, defined as someone under the age of consent, is automatically illegal regardless of whether consent is argued by any party.

4.2 REMAINING YEARS OF VULNERABILITY

With the law and age of consent in place, the majority of a child’s lifespan spent in educational institutions is covered by the legal system, ensuring that child abusers cannot use the excuse of “perceived consent” to argue their innocence. However, there is still an apparent substantial problematic area. Just because a minor has reached the age of consent, it does not automatically mean that they are now a prime target for abuse. The ability to consent does not equate itself to emotional maturity, especially when the student may continue to suffer from various other factors that increase his or her vulnerability. Fortunately, at least in the United Kingdom, Parliament has recognised that despite a person’s legal age, when they exist in an environment defined by a power hierarchy like that of a school, a relationship between a student and a teacher can and will amount to an ‘abuse of trust’ offence. This was outlined and made abundantly clear
in the 2003 Sexual Offences Act. Essentially, a sexual relationship or any behaviour that is deemed sexual in nature between someone who is in a position of trust, such as an educator, and a person to whom that trust has been extended, a student, is a criminal offence (Elizabeth II, 2003).

4.3 THE ROMEO & JULIET PRINCIPLE

The Romeo and Juliet laws are principles commonly associated with the United States of America. They were initially implemented to soften the strict lines defining statutory rape and essentially serve as an exception to the crime if certain conditions were met (Dumond, 2018). Subsequently they were expanded upon to “afford protection to minors who willingly, voluntarily and intentionally engaged in sexual intercourse [...] and to decriminalise the penalty for minors in statutory rape cases” (Dumond, 2018). However, subsequent analysis has taken things a step further and now it more so aims at providing a distinction between those individuals that pose a real and substantive threat to the community and the innocence of minors, from young adults and adolescents that make the mistake of exploring amorous relationships (Dumond, 2018).

At this point in the chapter, one has to wonder why this principle would be relevant to the context of this topic? While not a principle many believe in, particularly in the UK where it is entirely absent, it does raise an interesting question, which has also been echoed by traditional media outlets (Harris, 2013). What about young ‘vulnerable teachers’ who being close in age to the students they are educating, who are over the age of consent, find themselves in situations where they cannot or will not discipline students for pushing or overstepping boundaries, when it comes to pursuing a relationship? The law is abundantly clear on the legality of such matters, yet it does not fully take into consideration the phenomenon that younger females and males could initiate sexual acts (Dumond, 2018). Undoubtedly this is a complex matter and in a country like the United Kingdom, the principle of Romeo and Juliet would most likely not be the best way of dealing with such a phenomenon, especially considering that even in the United States of America those laws usually do not extend to adults in positions of authority (Dumond, 2018). In fact, the best solution could potentially be the provision of high-quality training to educators that aims to establish a clear and valid conception of the problem and its dynamics (Smallbone, 2013), as it is a method of prevention that does not allow itself to be abused via loopholes and psychological manipulation.

Despite the extensive legal intervention with definitions, penalties and legislative reform, the question still remains. How do we effectively combat such crimes in a way that restores harm to the victim, while simultaneously allowing them to cope with future psychological side-effects and even possibly rehabilitating the offender?

5. VICTIM TRAUMA, EXISTING METHODS & RESTORATIVE JUSTICE

Considering that child sexual abuse exists in many forms and that it is an illegal act that strongly relies on elements such as secrecy, control, coercion and abuse of power and trust, how can we effectively combat it? Furthermore, considering the issues that we are faced with today surrounding this topic, do we need to re-evaluate our current approach and consider the ethos of Restorative Justice?

5.1 CURRENT ISSUES FACING INTRAFAMILIAL CHILD SEXUAL ABUSE

It has been reported that it is quite difficult to accurately measure the extent of Intrafamilial Child Sexual Abuse due to deficiencies in statutory service data collection and recording proceedings (Longfield, 2015). Additionally, the problem is only exacerbated by the fact that the majority of victims do not report that they have suffered the abuse until much later in their lives once they have reached adulthood. This lack of reporting if often connected to them either not recognising the abuse at the time of their adolescence (Longfield, 2015), fear of their abuser and even the consideration that they themselves were at fault for what occurred, the self-victim blaming phenomenon. (McNeish & Scott, 2018).

Furthermore, because of the way in which research has been approached in this field, not just regarding child sexual abuse in educational settings but intrafamilial abuse in general, there are severe gaps in the literature available (Hovarth, Davidson, Grove-Hills, Gekoski, & Choak, 2014). Essentially, the majority of the research has been focused on the convicted male offenders and similarly interventions have also focused almost exclusively on the male abusers as well (Hovarth, Davidson, Grove-Hills, Gekoski, & Choak, 2014). As a result, the child’s voice has been largely absent from research in this area. It has of course been stated that the reasoning for this primarily has to do with ethical concerns. However, whatever the reasoning, it has resulted in the exclusion of the child victims’ views (Hovarth, Davidson, Grove-Hills, Gekoski, & Choak, 2014).
5.2 EFFECT OF INTRAFAMILIAL CHILD SEXUAL ABUSE ON VICTIMS

The severity of Child Sexual Abuse on victims becomes even more apparent when one considers just how detrimental the consequences are reported to be on their health. It has been documented that it forms a significant portion of the global burden of disease (Krug, Dahlberg, & Mercy, 2002). The side-effects range from physical, sexual and reproductive to psychological and behavioural in nature. It is terrifying to think that even though the impact on child victims has been recorded to be so extreme, the focus has not been primarily placed on ensuring that their well-being is the utmost and foremost concern of the legal system.

5.3 RESTORATIVE JUSTICE SOLUTIONS OF THE WEST

As iterated in previous sections of this chapter, a large part of the focus in Child Sexual Abuse cases in the West, is placed on the abuser. However, it has been widely accepted that attention needs to shift primarily to the victims. They need to start engaging in a process that will help them heal, something that the current criminal justice system, at least in the United Kingdom, does not accomplish at great length. The incarceration of their abuser can only do so much for the victims, when they feel as though their voice cannot be heard. It is almost as if they are reliving the trauma of their abuse, for much like their abuser took advantage of their inability to seek help because of their position of trust and authority, so are the Courts not allowing the child victims to have a more active and vocal participation in the trial process. While it is understandable that there are ethical concerns, the potential for deep psychological damage to take root is far too great to overlook additional options to the current system.

Considering everything we have learned about Restorative Justice, we can see just how it will be able to offer the victims the closure they need to move on with their lives (Gal, 2011). However, given the severity and sensitive nature of the crimes at hand, it appears that this ethos cannot be the primary way of dealing with the sexual abuse of minors. It is not possible to have a full open and honest dialogue right away, given a potential lack of remorse possibly held by the abuser, (Hanson, 2006) in addition to the not fully developed mental capacity of young victims, while also ensuring that the restorative justice process is not an easy alternative to prosecution (Hermstad, 2019). In such cases, it should be looked at and function as an add-on option to the criminal justice system rather than an alternative. Additionally, it should be an ongoing process to which the victim can have continuous access, so as the child grows and matures he or she can be afforded the opportunity to understand what they suffered through by communicating with their abuser, rather than having to piece together an understanding via court transcripts. In the West, this is more so the prevailing opinion mainly due to the fact that arguments against the use of restorative justice are tempered, when it is viewed as an additional procedure (Marinari, 2015).

The reasons why there are advocates against it being a diversion process from the criminal justice system, have been covered in parts of the chapter above. They include but are not limited to the substantial fear that the system could be manipulated by the abusers to avoid responsibility. However, people that are in support of this position, tend to focus more on the court process itself and heavily scrutinise how it is poorly setup to deal with victims’ mental health (Marinari, 2015). Furthermore, they also advocate that the seemingly harsh nature of the criminal justice system, may even be contributing to the underreporting of such crimes (Marinari, 2015). Despite this dichotomy in stances in the West, Restorative Justice as an additional route to achieving justice seems to be taking hold. This rings especially true, considering that figures show that post-conviction approaches to cases involving sexual abuse, including those of minors, are found to represent lower risk to survivors in comparison to ones that work as an alternate route of justice (Marinari, 2015). A clear interest in survivor wellbeing is demonstrated in such cases, even after formal justice has been achieved (Marinari, 2015).

5.4 RESTORATIVE JUSTICE SOLUTIONS OF THE EAST

While western culture as a collective offers two potential uses for restorative justice in sexual abuse cases involving minors, Eastern civilisations have a much more varied approach. This is potentially largely due to a difference in culture and governance. The restorative processes of Japan and Hawaii are particularly interesting in this regard, as they do offer their own unique perspectives on the issue.

Among all industrial countries, Japan has shown to be uniquely successful in dealing with crime in the last 40 years (Barnes, 2013). Specifically and of particular relevance to this chapter, is that the country has steadily reduced its crime rates for some of its most serious non-traffic offences such as homicide, rape and sexual assault/abuse, arson and burglary in the same recent chronological 40-year period (Barnes, 2013). This shift can be attributed to the almost unique use of restorative justice that can be found in the Japanese criminal justice system, that is unlike any other contemporary criminal justice system in any industrial state. What sets it apart, is that the Japanese courts have institutionalised a criminal justice system based on confession, repentance and absolution that leads to a process during
the entire length of which an offender is diverted and restored to the community for corrective support (Barnes, 2013). It is indeed truly remarkable how restorative justice became so ingrained in the mainstream criminal justice process of Japan, that it almost ceased to be a separate entity. John O. Haley, one of the most respected American Law professors and Japanese scholars, did have a few words of caution, in so far as one should question whether or not the Japanese criminal Justice system can or should be replicated at all (Barnes, 2013). However, the country’s approach does solidify two important points. Essentially, that even in cases of sexual abuse, the restorative justice approach has proven to be successful in correcting offenders and healing and empowering victims. Furthermore, the process is shown to work extremely well in conjunction with the criminal justice system, as an integral component of it rather than an alternative method of seeking justice.

Another significant and unique approach to the process of restorative justice was observed in Hawaii. It was detected that there existed a restorative justice practice for victims without offender participation. This project led by former victims of abuse and aptly named “restorative conversation”, focused on providing victims with an opportunity to tell their stories in a group setting that could also include friends and family (Barnes, 2013). Without the fear of intimidation by an abuser and surrounded by individuals capable of showing compassion and who in that space existed for the sole purpose of listening, it is easy to comprehend how such a version of restorative justice could, at the very least, initiate the healing process for the victim. With a more rigid implementation of the ethos of restorative justice, one could question just how effective such an approach would be without the participation of the offender. However, what this process reminds us is that restorative justice is inherently flexible and indeed has a greater focus on restoring harm to the victim with the secondary goal being that of offender rehabilitation. If this example was implemented on a global scale it could potentially further increase reporting on sexual abuse crimes, as a safe environment would exist for someone to tell their story before choosing to take the next step and confront their abusers.

### 5.5 PRO-ACTIVE METHODS OF STOPPING ABUSE IN EDUCATIONAL SETTINGS

It is submitted that Restorative Justice can indeed play an integral part in ensuring that the victims of Intrafamilial Sexual Abuse find their voice and are able to successfully re-join society with their wounds healed. Without a doubt this an important step forward in dealing with such crimes. However, leaving any crime, let alone child sexual abuse actually reach the point of a crime being committed, without an earlier intervention, does not set a good example for future practices. As a result, a first pre-emptive line of defence against such abusers should be mandatory. Specifically, such counter-measures should be applied in schools and educational premises primarily, as intrafamilial sexual abuse between a teacher and a minor will first occur in such settings. Some pro-active methods of prevention that have been recommended are as follows:

*Increasing the effort required to commit the crime. This can be achieved by controlling access to school grounds, thereby limiting the existence of neutral territory available to potential abusers. Furthermore, educational institutions should engage in routine employment and background checks, ensuring that risk is minimised when staff is hired given that they will be working with minors. Additionally, by enrolling students in resilience and resistance-based training regimes, to help increase their self-esteem and knowledge on the matter from an early age, the chances of them being taken advantage of could experience a potential decrease. In fact, as evidenced by the definition of Child Sexual Abuse, earlier on in this chapter, lack of understanding from a victim's perspective is a real contributing factor to the victimisation of minors. Therefore, arming them with such knowledge could work as a last line of defence should all other pro-active safeguards fail.*

*Increasing the risk of detection. Even if access to the grounds of educational institutions is controlled, there is still the possibility that abuse will occur on the premises. There is no clear way to cover every contingency. However, it has been suggested that if education centres revamp the structure of their environment, then the possibility of sexual abuse occurring could be lowered even further. By ensuring that what happens in classrooms is fully visible from the outside with the inclusion of more windows and through the potential use of CCTV, the risk of detection rises, essentially serving as a deterrent.*

*Providing proper training to staff. Even though such a suggestion may appear to be evident, more still needs to be accomplished. Educators and support staff should be able to recognise signs of potential abuse. This would enable swifter reporting that could stop any abuse already in progress from spiralling into the long-term and causing even more damage to an abused minor. Additionally, the training will also serve as removal of any doubt from the mind of any would-be abuser, about how serious of a criminal act Child Sexual Abuse is. Perhaps with information of exactly what a victim experiences while subjected to sexual abuse, in addition to how the abuser would be punished when caught, any would-be abuser would be deterred from engaging in such acts (Smallbone, 2013).*

While the focus of this chapter is on Restorative Justice solutions and their applicability to the aforementioned crime, it would...
be remiss not to specify the need for methods of prevention as well. The restorative process supported in this chapter is highly desirably but of course what would be even more so is ensuring that sexual abuse of minors does not occur in the first place.

6. FINAL THOUGHTS

Child Sexual Abuse both in and out of educational settings, has been globally recognised as a serious issue with severe detrimental repercussions on victims, currently facing humanity. Furthermore, even though the literature has not conclusively proven the extent of the impact, it has essentially been shown that a significant part of child sexual abusers were abused themselves when they were at a vulnerable age (Hanson, 2006). This suggests the potential for the existence of a never-ending cycle, if we do not put a stop to it. As evidenced in the chapter above, ending the cycle of abuse can be achieved in many ways. However, all these methods need to be implemented together, while ensuring safer schools will make it much harder for abuse to occur, in the eventuality that it does continue to do so, we cannot continue focusing primarily on the incarceration of the abuser. The children need to be given a voice, their view and emotions on the matter need to be recognised.

Restorative Justice can help in offering the victim a platform. It can stop them feeling as though they do not have a say in the proceedings that will lead to the incarceration of their abuser. Without their voice being minimised, they can start the healing process earlier and hopefully avoid the long-term negative effects on their physical and psychological health resulting from the abuse suffered. The ethos of Restorative Justice has by no means a straightforward application, a fact echoed by the various debates surrounding it, as portrayed by this chapter. But therein lies its greatest strength. It is flexible and can be tailored to suit the victim’s needs, since utmost and foremost its goal is to restore the harm done. It is not an alternative to the criminal justice system but rather a supplementary ongoing process that can be revisited at any time when the victim feels confident and strong enough to face their abuser and begin their journey of healing. While varying approaches may exist in a multitude of different jurisdictions, it has hopefully been proven that once consolidated, each respective approach, whether it originated from the East or the West, can make a real impact in how Restorative Justice is applied and its ethos is achieved.

REFERENCES


ABSTRACT

This paper explores definitions, understandings, challenges and perspectives of including restorative justice practices in educational settings in order to prevent youth violent radicalisation. The latest terrorist attacks in Europe, such as the attacks in Barcelona in 2017 and the shooting in Munich in 2016, were perpetrated by young people. Therefore, this group started to be seen by society and policy makers as a problem. Despite being the main target of recruitment, they can be part of the solution and be the subjects on which prevention should focuses. A restorative approach could be an effective strategy when dealing with such complex phenomenon. Thus, by understanding youth radicalisation and violent extremism mainly as social phenomena, the educational settings which make an extensive use of restorative approaches can decrease those factors that might lead to radicalized acts. The paper will be divided into two sections which either investigates the link between restorative justice and education; and the issue of violent radicalization in Europe when it is perpetrated by young individuals. To conclude, the research topic is answered through a case study methodological approach together with a critical analysis of the academic literature. The paper has an exploratory character.

INTRODUCTION

Violence by itself is a matter of public and societal concern, but violence that corrupts our ability to live together is even a greater worry. Governments have the responsibility to protect their citizens, and at international level governmental bodies, such as the European Union (EU) and the United Nations (UN), have duties to prevent the drivers that caused the violence in the first place.

In Europe, efforts to prevent all forms of violence have been made, both by regional and national bodies. Most of the European citizens – 80%, think that Europe is a safe place to live (European Commission, 2015), but if so, why did the official survey of the Eurobarometer carried out by the European Commission (EC), showed that topics related with security are the top concerns for Europeans?

Over the past years, the number of attacks perpetrated by extremist groups has risen. Therefore, radicalisation has posed an increasing threat in the EU. Recent terrorist attacks (e.g. the Jihadist attacks in UK, Spain, Belgium and France) and the increased number of young people joining and sympathising with extremist oriented ideas (e.g. Neo-nazis) and other forms of violence and intolerance (e.g. xenophobia, islamophobia, hate crimes) have placed the issue of radicalisation as a priority and a challenge on the political agenda (Youth Counselling Against Radicalisation, 2015).

According to the European Agenda on Security (2015), the Organization for Security and Co-operation in Europe (OSCE) report, “Working with youth and for youth” (2015), and the EU Radicalisation Awareness Network (2016), stated that currently young people are increasingly challenged with the menace of radicalisation (SALTO-YOUTH, 2017).

In December of 2015, the International Centre for the Study of Radicalisation estimated the number of European citizens joining the Syrian rebels to be around 4,000, with Germany, France and the UK as the biggest contributors (BBC, 2016).

The supposed menace posed by these young fighters for the rest of Europe’s citizens, but also the potential harm for the young people themselves placed the issue of youth radicalisation at the top of the European political agenda (Council of Europe & European Commission, 2017).

There is also a strong need to mention that the current approach to youth radicalisation and marginalisation is leading young people and society towards becoming more polarised than ever, while “them” (terrorists) and “us” (victims) rhetoric dominates political speeches and media presenta-
tions (Gavrielides, 2016; Gavrielides, 2016).

The truth is that “the process of radicalisation affects the European youth equally encompassing political, social, or religious affiliations and leads to the same outcome: a militancy based on a radical ideology of hate and exclusion” (SALTO YOUTH, 2016, p.3).

This chapter attempts to progress the understanding of the potential of restorative justice within educational settings in Europe. Indeed, linking education with restorative approaches might help in implementing strategies which deal with the issue of youth radicalization, since schools are the places where young people interact and learn those values which shape their future behaviours. In addition, some restorative practices from the East can be taken as good tools in the West in relation to radicalization.

This chapter identifies and explores two case studies of restorative justice in preventing youth radicalisation, in an attempt to analyse the potential underneath this approach. Since youth radicalization is one of EU’s biggest threats and many efforts are being done to prevent and react to it, the research intends to show the benefits of such an approach. In other words, written by young people this chapter tries to demonstrate how powerful education can be, if we make a proper use of it.

Overall, this chapter is divided into two major sections, the first one is about restorative justice in educational settings in Europe while the second one focuses on the issue of youth radicalization. Each section contains further sub-sections which attempts to provide readers with more detailing data on specific themes related to one of the two main concepts of the chapter.

The first section includes topics concerning the link between education and restorative justice; analysing how restorative justice is theoretically and practically implemented in school environment. The aim behind this methodological choice is to discern briefly key principles and elements that restorative justice possesses in order to point out the possible positive relationship between restorative justice and youth radicalization. It will be underlined that despite restorative justice has mainly arisen as an approach related to the criminal justice system, its focus on restoration and mutual understanding allows to broaden its scope, applying it within other contexts as radicalization. Finally, this section aims to highlight the proactive role of schools can have in preventing episodes of youth radicalization by means of restorative approaches.

The second section provides insights of what violent radicalization is and which are the factors that can lead a young individual to commit radicalized acts. Then, a subsection will focus on the positive attempts taken at the European level when youth radicalization is at stake. This theme is relevant because it demonstrates youth radicalization is among policy makers’ priorities, since its prevention is perceived as a strong tool to fight terrorism and violent radicalization. Indeed, young people are the ones who are more likely to be exposed to terrorist narratives and recruitment, mostly if they are marginalized by the society itself.

In the conclusion, the relevance of using restorative practices in relation to youth radicalization in school settings is discussed by highlighting means of some recommendations and thoughts to policy, research and practice. It also describes how inclusion of narratives which have their roots in the East could lead to a more inclusive approach to solve the issue of radicalization. The research is not comprehensive, but it can be the starting point for further development on the topic.

**RESTORATIVE JUSTICE IN EDUCATIONAL SETTINGS**

The stress on the possible link between restorative justice (RJ) and youth radicalization is worthy to mention since restorative approaches can have positive outcomes when applied to social issues. Notwithstanding restorative justice emerged within the criminal justice system, nowadays restoration has strengthened its role in different forums such as anti-terrorism and religious violence (Marshall, 2004), feminist and anti-racist politics (Daly & Stubs, 2004). In our opinion, restorative justice has a potential also in providing solution to prevent youth radicalization since the latter is a complex social and criminal phenomenon. In order to fight against youth radicalization there must be in policies and programmes which go beyond the mere scope of deterrence. When an issue has a social dimension, it becomes important to take into account sociological - for instance the reintegration into society or the role of society in preventing episodes of radicalization- and psychological imperatives - the reasons which push an individual to commit acts of radicalization, the needs of victims- in order to have a more comprehensive answer on the matter. Then, restorative programmes can be one of the means by which this aim can be achieved since it focuses on the role of society and on the personal needs of people involved.

Before outlining the role of restorative justice in educational setting, a brief explanation of what is restorative justice follows. There is no specific definition of restorative justice, but rather it varies according to the authors, that stress
certain aspects, or where the definition focuses on the outcomes or on the restorative process.

The earliest proponent of restorative justice, Howard Zehr, in his Little Book of Restorative Justice, depicts that restorative justice is “a process to involve, to the extent possible, those who have a stake in a specific offense to collectively identify and address harms, needs and obligations in order to heal and put things as right as possible” (Zehr, 2014, p.40).

Another RJ scholar also suggests that “Restorative Justice is an ethos with practical goals, among which is to restore harm by including affected parties in (direct or indirect) encounter and a process of understanding through voluntary and honest dialogue. Restorative justice adopts a fresh approach to conflicts and their control, retaining at the same time certain rehabilitative goals” (Gavrielides, 2007, p. 139).

At the UN level, restorative justice is described as “any process in which the victim, the offender and/or any other individuals or community members affected by a crime actively participate together in the resolution of matters arising from the crime, often with the help of a fair and impartial third party” (Basic principles on the use of restorative justice programmes in criminal matters, ECOSOC Res. 2000/14, U.N. Doc. E/2000/INF/2/Add.2 at 35 (2000). §1, 1 (3)).

The above-mentioned definitions put the emphasis on the role of addressing the harm by means of either concrete acts or an open and honest dialogue during which people share their thoughts and past. Thus, restorative justice is an attempt to strengthen and build relational bounds among people.

In general, restorative justice focuses on the relational aspect of life, namely on the fact that people are interconnected, and each action is strictly linked to others’ ones. It aims to establish a narrative due to which humanity is more important than selfishness. Indeed, the latter can lead to a hierarchical conception of the world, where there are some categories of individual who can argue to be superior to others, thus not allowing to everyone the duty and right to be respected as a human being. Restorative justice then can rely on two words, namely humility and respect where “humility includes the idea of not taking more credit than one should. [...] It means having such an understanding that it is possible to remain open to the truth that others’ life realities are not the same as one’s own. Respect means not only treating all parties as persons with dignity and worth, but also as people with wisdom and other valuable contributions to offer” (Zehr & Toews, 2004, p. 19).

Therefore, it seems feasible to argue that restorative approaches when aim to create relationships among individuals based on respect and humility, then these restorative approaches might lead to a reduction of one of the main causes of radicalization, namely marginalization. Thus, marginalized individual is more likely to harbour feelings of hate towards their peers and the society as a whole. Consequently, they might undertake actions against these subjects by means of bullying, hate speech, or more serious acts which might involve someone’s physical security.

However, marginalization is not only one of the causes of young radicalization, but it represents one of its consequenc- es as well. As pointed out by The European Commission, radicalization is a complex issue and as such it is feasible to ar- gue “that drivers conducive to radicalisation may include a strong sense of alienation, perceived injustice or humiliation reinforced by social marginalisation, xenophobia and discrimination, limited education or employment possibilities, criminality or psychological problems. Recruiters can exploit these factors and prey on vulnerabilities and grievances through manipulation” (Committee on Women’s Rights & Gender Equality, 2017, p. 7). However, marginalization can also be a possible precursor to radicalization (Lyons-Padilla, Gelfand, Mirahmadi, Farooq, & van Egmond, 2015).

There is no denying that the community itself plays a relevant role in reintegrating young radicalized people. Indeed, one of the roles as society is to promote social cohesion and relational bonds among people. However, this is not likely to happen easily when the subjects of reintegration are people who have committed some wrongdoing because what prevails is a feeling of fear and mistrust. As such, the surrounding community often excludes people who have committed radicalized acts, mostly if they have radically embraced different values on religion, rule of law and democracy. This attitude is increasing in today world, where the fear of terrorism and Muslims is playing a relevant role also at the political level. Therefore, it is less likely to happen that a community welcomes who has either spoken highly of or committed radicalized acts in relation to ethnicity and religion.

Here, restorative justice can play a positive role as well, aiming to increase the positive involvement of the community while decreasing the stigma radicalized individuals keep with them. One of the tool which can be used in this regard is the so called reintegrative shaming (Braithwaite, 1989). Braithwaite (1989) has theorized this concept, linking it to offenders, since it is the “shaming which is followed by efforts to reintegrate the offender back into the community of law-abiding or respectable citizens through words or gestures of forgiveness or ceremonies to decertify the offender as deviant” (Braithwaite, 1989, p.101). The reintegrative shaming turns into a positive means that reconstructs human bonds since the offender apprehends the disvalue of the wrongdoing, constructively elaborating the shaming. Consequently, the contact with sub-criminal cultures decreases due to the presence of a community that welcomes the offender. Finally, two elements distinguish reintegrative shaming from stigmatization, namely “(a) a finite rather than open ended duration which is terminated by forgiveness; and by (b) efforts to maintain bonds of love or respect
Therefore, shifting the subjects from offenders to young radicalized appears logical and relevant. In addition, they would benefit from an active community that attempts to achieve inclusiveness and comprehension. Indeed, society is an important stakeholder of restorative justice. Firstly, the community as a whole is one of the subjects which will get advantages from the reparation of the harm. Secondly, communities can be one of the driven forces that can implement restorative attitudes in restoring criminal and social issues. A comprehensive answer to social issues requires different perspectives, other than the ones provided by governments and justice employees. One of the main cores of restorative justice is the reintegration into society of the wrongdoer and in order to accomplish this scope, the community should have some features based on restorative justice.

Restorative justice has been developed within the justice system and as such, its language is built up with words as “offender”; “victim”, “conviction” and deterrence. Its main role has been to repair the harm caused by the wrongdoing and to create a safer society based on fair and strong relationships among individuals. Therefore, it might seem hard to use the same language within other environments where restorative justice is applied, and school settings can face this issue. Most of the episodes that occur in schools do not involve someone who has been convicted for a crime, thus also the concept of justice itself might change. Indeed, the aim is not anymore to have a criminal system that can provide judges and the individuals involved with effective tools to answer to lacks and difficulties of the actual justice system. During the school years, young people can experience various forms of injustice, which should not be underestimated because of their real impact on someone’s life. For instance, episodes of bullying or hate speech are eradicated within certain schools, thus leading to early episodes of radicalization. Moreover, young people can offend a peer and this attitude might create a less safe environment within the educational setting. Therefore, the role of restorative justice in schools should not be considered as secondary since it can provide a complementary approach to the traditional way of punishing a student who did something wrong according to school policies.

It has been pointed out that other approach than those focused on punishment can lead to a better culture of non-violence. Indeed, “research has demonstrated an association between school suspensions and higher prevalence of school drop-outs, lower academic achievement and increased risk of future antisocial behaviours, conduct problems, and crime” (Fitzgerald-Yau, Fletcher, Hale, Bonell & Russell Viner, 2013, p.2). Consequently, and still according to Fitzgerald-Yau, Fletcher, Hale, Bonell & Russell Viner (2013), alternative ways to deal with wrong behaviour in school settings have been tested, and “recent evaluation studies indicate that restorative approaches promote a calmer school environment with a strengthened ethos and reductions in truant behaviour and disciplinary exclusions both in the UK, and internationally” (p.2).

Restorative justice aims to empower people and schools should achieve the same purpose as well. According to the statement made by members of the European Council, following their informal meeting held on 12 February 2015, “the primary goal of education in not only to develop knowledge, skills, competences and attitudes and to embed fundamental values, but also to help young people – in close cooperation with parents and families -to become active, responsible, open-minded members of society” (Informal Meeting of European Union Education Ministers, 2015, p. 2).

Education can take place, among other, through formal and informal routes. Formal education is seen as “the structured training systems that run from pre-primary and primary through secondary school and on to university”. On the other hand, non-formal education is understood as “any planned programme of education designed to improve a range of skills and competences, outside the formal educational setting” (Council of Europe, 2010), and Restorative Justice is a tool often used in schools and school community has a lot to gain from its use.

It is important to invest in young people by aiming at developing their skills and contribution to the community, since in a near future they will engage in active roles in the society. Schools themselves are microorganisms in which individuals start to interact and to shape their problem-solving attitudes. Furthermore, schools have the leading role to teach the values on which society relies, thus it might be important to include in the educational process restorative principles as empathy, and inclusiveness. Then it is arguable that they will behave according to the latter when they have to build adult relationships or that these values would shape our sociological system in a more effective way. As Marshall pointed out, “even more crucial [than the work in juvenile and criminal justice] is the work just beginning in schools – anti-bullying systems, the prevention of truancy and exclusions, class circles, conflict resolution training, peer mediation. [...] How well we manage our schools will determine how well our society works a generation later” (2007, p. 325).

Various research findings have already pointed out that the development of restorative justice in educational settings goes hands to hands with the increasing focus on emotional intelligence. Emotional intelligence is generally defined as “an ability to recognize the meanings of emotions and their relationships, and to reason and problem-solve on the basis of them” (Mayer et al., 1999, p. 267). The culture of non-violence can be developed and promoted when emotional intelligence is emphasised. Indeed, the latter might address harmful behaviours which occur in schools more positively than traditional punishment as suspension from school, since sometimes the latter results to be ineffective in a long-term perspective.
Finally, the importance of the use of restorative justice in school settings can be linked to the relation between teacher and students as well, by undermining a hierarchy which is not always attentive towards students’ needs and that does not create always space for the students to develop their skills in a proactive way.

GUIDELINES FOR RESTORATIVE JUSTICE IN SCHOOL SETTINGS

Following this increasing awareness on the use of restorative justice in environments different from criminal system, it was necessary to set up clear guidelines in order to define what is a restorative approach or measure in school and how it can be applied.

The Restorative justice Consortium of 2004 provided a list of principles that support the use and implementation of restorative justice in educational settings (hereafter called as “Document”). Before analysing the use of restorative justice within schools, the document lists a set of values which mark restorative processes regardless of the environment where they are applied. These values include Empowerment, Honesty, Respect, Engagement, Voluntarism, Healing, Restoration, Personal Accountability, Inclusiveness, Collaboration, and Problem-solving. Therefore, schools should aim to achieve the above-mentioned values by means of specific principles that are listed in the Document and that are divided according to four categories: Processes; Equalities/ Diversity/Non-discrimination; Information, Choice and Safety; Agreements/Outcomes; and Organisation/policies (O’Dwyer, 2014).

The principles listed in the category of Processes concern the ways in which the harm should be addressed during a restorative process. Moreover, it is stated that each restorative process has to be voluntary and its participants are entitled to specific rights and duties. Then according to the second category, both diversity and the dignity of participants should be respected, without discrimination. Furthermore, participants should be informed properly and about the variety of restorative processes available, having guaranteed their safety during the practice. It is important to notice that safety is achievable also by means of confidentiality from all the parties involved. Under the category of agreements/outcomes, Principle 24 is quite relevant, and states as follow “Learning from restorative processes to lead to a reduction in harm and the fear of crime; whilst encouraging cultural and behavioural change amongst individuals and communities. This in turn can lead to improved social harmony and safer communities. Therefore, where appropriate, practitioners and services are encouraged to find ways to safely promote this learning to others” (Liebman, 2007, p. 426).

The second part of the Document focuses on the extent to which a school can be defined as fully, moderately or minimally restorative thanks to an assessment model whose outcome is a continuums table (reported below). The model assesses how much restorative meeting (or encounter); making amends; (re) integration; and school involvement are in relation to a continuum from not restorative to fully restorative. Two steps evaluate the assessment. Indeed, “the first step is to evaluate where a school (program or case) sits in each of the four areas. The second step is to chart the results of each on the combined continuums table (below). If the result lies above the triple line (that here is line in azure), the school (program or case) would be considered fully restorative, above the solid line moderately restorative (that is our orange line), and above the dotted line (that is our yellow) minimally restorative. Of course, the result may not necessarily fit neatly into one of these groups - it may be lower or higher in one category, for example - but this offers a way for schools to assess their relative restorativeness and to pinpoint the areas that may need improving”. (Restorative Justice Consortium, 2005, p. 14).

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RESTORATIVE JUSTICE BRIDGING THE EAST AND WEST

RESTORATIVE JUSTICE IN SCHOOL IN PRACTICE: SOME EXAMPLES

When restorative justice is applied within the criminal justice system, it can be presented in various forms, which are based on the importance of dialogue among stakeholders. Regardless of which restorative models are used to involve the perpetrator, victim and community, the main objective is to provide stakeholders with a proactive role when the harm is addressed. Surely, restorative processes are malleable, and they can change throughout time and according to people involved. There are three models that are linked to restorative justice, namely victim-offender mediation, conferencing and circles (Raye & Roberts, 2011). The mediation can take place before, during or after the conviction and can be undertaken with real or substituted victims or offenders. Namely, a victim can follow a mediation process with offenders who committed the same crime but who are not the direct perpetrator; on the other side, offenders can meet indirect victims. By means of the other two models, the involvement of third parties can expand. In fact, the purpose of conferencing is to include the victims, the offenders, the victims’ families, the offenders’ families, and supporters of both. In the last model, namely restorative circles, the community itself has a relevant role in supporting victims and offender reintegration.

When restorative justice is applied in school settings, these forms are actualized in various and creative ways and sometimes with different objectives. Advocates of restorative justice have put in place various processes when the subjects of the restoration have been young people who committed a wrongdoing according to the policy of the school taken into consideration. One of the means by which young people can approach themselves with restorative justice has been community and family group conferencing. However, “as conferencing began to be established in schools, schools recognized that a full conferencing process was not needed for all behaviour concern. Some schools paired peer mediation with conferencing; others added informal conferencing, while others developed restorative circle processes as part of the normal classroom activities, to address problems and concerns at school level” (Morrison, 2007, p. 337).

The focus of restoration should aim at inspiring young people to understand how less serious wrongdoings relevant consequences on a peer and the use of might have problem solving circles can achieve broaden objectives. These objectives go further individual reparations and are more focused on creating social and emotional behaviours in line with the idea of restorative justice. However, some weak points have been underlined after the use of restorative practices in schools. Moreover, research findings suggest that the implementation of community forums for specific behaviours instead of seeing restorative justice were universally applicable. One of the findings has been that “school community forums work best when used as an anti-bullying and harassment intervention… the forum process confronts the bully with the consequences of their anti-social behaviour more powerfully than do many other forms of intervention” (McKenzie, 1999, p. 8).

It might happen that restorative justice is applied in a systematic way, meaning that all the rules within certain environments or institutions are entirely shaped on the restorative paradigm. The first example of this comprehensive use of restorative justice has been undertaken within prison settings by means of the so-called restorative prisons in Belgium (Biermas & d’Hoop, 2001). Indeed, this type of prisons is structured according to the paradigm of restorative justice and both offenders and prison personnel have to abide by restorative programmes. Consequently, the focus is not more on the offence itself but on the individual and on his/her empowerment and following reintegaration into society.

The Young Justice Board (YJB) has recently tested a similar approach also in educational setting. The latter attempted to transfer the same logic in twenty-six schools in England and Wales, by means of various and different restorative programmes. The study has showed positive as well as weak outcomes which have demonstrated that “restorative justice is not a panacea for problems in schools but, if implemented correctly, it can improve the school environment, enhance learning and encourage young people to become more responsible and empathetic” (Bitel, 2005, p. 13).

As demonstrated above, restorative justice may lead to relevant changes for young people within school settings. Restorative justice builds relationships, creates confidence circles, it is a huge shift of the mind-set and it builds a sense of community. For instance, restorative justice can push teachers to listen more carefully to young people’s needs, it can boost programmes which aim to enhance individual skills, and which are more focused on reducing harmful behaviours instead of just on punishing. It also encourages students to reflect on their mistakes by trying to understand the root causes of the behaviour, it enables young people with the possibility to make amends (and not only to be punished). In other words, in school contexts, restorative justice creates a completely new way of living together, because it focuses on building, mending and strengthening relationships.
YOUTH RADICALISATION

Violent radicalisation has become a serious threat facing societies across the world since it affects the security, well-being and dignity of many individuals, as well as their peaceful and sustainable ways of life (United Nations Educational, Scientific and Cultural Organization [UNESCO], 2017). It also poses serious challenges to human rights. To date, governments of various countries in Europe have been trying to tackle violent radicalisation and extremism with military and security strategies. However, over the past few years there has been a raise of the awareness that allocating funds to reinforce mainly security and military options is insufficient to protect society from this menace. That is why we have been witness a change in the approaches used to manage this threat.

There is a lack of clarity to what it comes to how serious the issue of violent radicalisation is. There can be no doubt that there is also a gap between actual reality and public perceptions (Youth Empowerment and Innovation Project [YEIP], 2018). For instance, the Portuguese government has not yet divulged any exact numbers on how many young people have been detected as radicalised (Marcelino, 2016).

The truth is that this phenomenon is originated “mostly from political and/or religious organisations promoting radical value systems among young people, which are appealing in as much as they offer to paint the complexity of the world black and white” (SALTO YOUTH, 2016, p.3).

There is no doubt that the marginalisation and violent radicalisation of young people in Europe has been rising over the past years with the outbreak of the harsh economic crisis affecting all the member states, the disappointment of young people with the political system, the increase in the number of refugees and immigrants and the lack of structures for their integration (YEIP, 2018).

Therefore, the political discourse on either securing national security or prevention is currently creating uncertainty regarding to how security can be combined with preventive initiatives.

DEFINITIONS

Before exploring what makes young people vulnerable to radicalization, it is relevant to focus on definitions around this phenomenon. The terminology regarding violent radicalisation is very complex and is still largely discussed; thus, there is any agreement on the definition.

Starting with violent radicalisation, Article 1 of the Framework Decision on Combating Terrorism (Council of European Union, 2002) defines violent radicalisation as the “phenomenon of people embracing opinions, views and ideas which could lead to acts of terrorism”.

However, radicalisation does not necessarily lead to violence. Some scholars have outlined that radicalization is about the will of making changes to the existing political and social structure. Therefore, it can also be defined as “another approach defines radicalism as a quest for sweeping change, while limiting extremism to the pursuit of concrete and localised political ideologies” (Orav, 2015, p.2).

Regarding extremism, it has been referred to as the adoption of a particular ideology with the intention to use violence to remove the state or/and ruling structure (Hall, Pawlak & Ferguson, 2016). The most common understanding of violent extremism is as it follows, namely “the beliefs and actions of people who support or use violence to achieve ideological, religious or political goals” (Living Safe Together, 2016). Furthermore, the theoretical core of violent extremism is based on the assumption that the latter is an ideologically driven resort to the use of violence, commonly based on conspiracy theories (United Nations Educational, Scientific and Cultural Organization, 2017).

Since religion is among the main drivers of violent radicalisation, it is significant to reflect a little on the definition of religious fundamentalism. Religious fundamentalism can be defined as “a belief in an absolute religious truth which is challenged by the forces of evil and which must be followed today in the same way as in the past” (Orav, 2015, p.1).

To sum up, terrorism is the most violent expression of violent radicalization. It has been stated in the Organisation of the Islamic Conference (OIC) of 1999 as an “act of violence or threat thereof notwithstanding its motives or intentions perpetrated to carry out an individual or collective criminal plan with the aim of terrorising people or threatening to harm them or imperilling their lives, honour, freedoms, security or rights or exposing the environment or any facility or public or private property to hazards or occupying or seizing them, or endangering a national resource, or international facilities, or threatening the stability, territorial integrity, political unity or sovereignty of independent States” (Organization of the Islamic Conference [OIC], 1999, p.2).

As mentioned above, definitions of radicalisation are diverse due to its use in political affairs, where definitions are
used to motivate policy choices. Despite this multiplicity of definitions, they tend to have some aspects in common. Indeed, they perceive radicalisation both as an individual and group process and as such, psychological and social factors should be considered. Then, it is often characterised by the rejection of the legitimacy of the existing order, which can lead to non-violent tactics as well as to violent or terrorist ones. Lastly, radicalisation also contains processes of ideological/social isolation from society (Youth Counselling Against Radicalisation, 2015).

Since there is no agreement on the meaning, “it is recommended these notions be discussed and defined at a national level, as a precondition to any planning effort, in order to fully understand the multiple implications of each them” (United Nations Educational, Scientific and Cultural Organization, 2017, p. 18).

WHY DO YOUNG PEOPLE GET INVOLVED IN RADICALISATION ACTS?

Regarding youth radicalisation, it becomes imperative to understand what benefits young people get from the involvement in these activities. Joining a terrorist group may lead to some advantages due to which the involvement appears appealing. The literature suggests that membership in terrorist groups offers young people a variety of incentives/encouragements, which will function as pull factors (Council of Europe & European Commission, 2017). Young people usually get involved with terrorist groups in order to fulfil their needs, such as a sense of belonging and acceptance, security or safety, honour and responsibility, a way out of poverty, a sense of purpose, an opportunity to resolve injustices, revenge and a “buzz” (SALTO-YOUTH Cultural Diversity Resource Centre, 2016).

If young people see their needs being satisfied by these groups instead of by their government and society, it means that something is not functioning the way it should be. This does not necessarily mean that the fault is on young people; conversely, it can be also on the lack of opportunities contemporary society provides for this group. Furthermore, there is a need to think that the above-mentioned benefits can easily lead young people to other types of non-violent and normative groups.

Analysing both those factors that push a young individual to commit acts of violent radicalization, and the root causes of the latter helps in having a better understanding of the issue. Thereafter, it would be easier to insert the positive role of restorative justice in preventing and fighting youth radicalization. Deprivation, discrimination, and residential segregation are root causes of violent radicalisation; thus, they play a facilitative role in this process. However, many more factors increase the risk of involvement. (Council of Europe & European Commission, 2017; RTI International, 2018; Sieckelinck & Gielen, 2018; Smith, 2018).

The roots of violent extremism and radicalisation are various. Consequently, there is not a single sign that indicates whether a person is at risk. However, the drivers of violent radicalisation are separated in two categories: the push and the pull factors. Push factors are associated to “the conditions that are conducive to violent extremism” (UNESCO, 2017) and Pull factors are “understood as individual motivations that attract potential recruits and the rationales that may be used to legitimize violence” (UNESCO, 2017).

According to one of the Radicalisation Awareness Network (2016) papers, “the push-factors of violent extremism involve: social, political and economic grievance, an identity crisis, a sense of injustice and discrimination, polarisation, personal crisis and tragedies, frustration and alienation, a fascination with violence, social exclusion, disappointment with democratic processes, etc” (p. 4). The pull factors of violent extremism suggest that radicalisation acts “are a personal quest, a sense of belonging to a cause, ideology or social network, a sense of loyalty and commitment, power and control, personal redemption, a romanticised view of ideology and cause, a sense of excitement and adventure, etc” (Radicalisation Awareness Report, 2016, p. 4). At first glance, it seems the impact that restorative justice might have a role in reducing deprivation, discrimination and residential segregation is scarce. On the contrary, a more detailed analysis might lead to a different conclusion. Indeed, overall restorative justice attempt to create a more accepting place and sense of community among people and the previous analysis on the impact of restorative justice in schools has demonstrated some positive outcomes on young people in feeling accepted and in learning values as healing and non-violence approaches.

In addition, regarding the reasons why organised armed groups recruit young people, researches have shown that young people can be viewed as cheap, effective and obedient fighters (Magnuson & Baizerman, 2007). Despite the fact that young people tend to be seen as cheaper and more obedient to extremist and terrorist groups, if governments use Restorative Justice as a weapon against this behaviour, by giving young people the tools to feel powerful, resilient and more confident, the likely of organised groups to recruit them will decrease. The same applies for the facilitating role the facilitating role of the internet. It is known that due to technological development and the frequent use of social media, radical groups are resort to social media to spread their influence (Youth Counselling Against Radicalisation, 2015). These groups use Facebook, chat rooms and internet sites in order to raise donations and to recruit and radicalise people into their ideology. However, two preventive approaches can decrease the negative impact of social media in relation to youth radicalization. Firstly, it is important to create a good environment for young people...
to thrive. Secondly, schools can play an important role as well because they can be the places where young people develop important, such as emotional intelligence. Indeed, emotion intelligence provides youngsters with the tools to differentiate themselves from radical groups’ messages on social media and this can lead to a very strong generation of young people who can directly create a safer society.

Seeing from a broader perspective, restorative justice is an innovative approach to challenging behaviour, as it focuses on mending harm over and above the need for assigning blame and dispensing punishment (Wright, 1999). In addition by doing this, it enables schools to be a safer and prosperous environment for young people to grow, diminishing the likely of them to be a target for radical and violent groups.

Therefore, the preventive strategies designed must be “tailored to the specific drivers behind each main type of activist and the specifics of the various group” (European Commission’s Expert Group on Violent Radicalisation, 2008, p. 13). As prescribing the same medicine to people with different diseases and health conditions is not effective, equally each young individual must be seen as a specific individual with his/her own story, flaws and virtues.

Looking at how restorative justice is used in schools, in general we can easily see that schools can create a safer place that can assist young people to meet their needs and prevent them from joining into different types of violent groups. If schools are able to provide young people a sense of belonging, acceptance, security and safety, then some needs that cannot be mitigated at home or by their communities are being fulfilled by the schools. Therefore, the risk of having young people looking for other sources to fulfil their needs would be reduced. Using Restorative Justice in schools, especially to solve conflicts and bullying cases, will also give students a sense of responsibility and it will be an opportunity to resolve injustices.

The truth is that “schools today are more frequently using punitive discipline practices to control student behaviour, despite the greater effectiveness of community-building techniques on compliance that are based on restorative justice principles found in the criminal justice system” (Payne & Welsh, 2013, p. 1). However, restorative justice allows schools to create more individualized solutions that are manageable to all the parts, offending students and victims (Watchel, 2001) and it can also be a useful weapon to help prevent the involvement of young people with radicalised groups.

**EUROPEAN POLICIES**

In Europe, explicit legislation and policies have been implemented to counter terrorism (CT) and violent extremism with explicit links to education, as it will be highlighted in this section. In other words, policies to prevent young people’s marginalization have been developed in response to the European Agenda on Security, EU Youth Strategy and the Erasmus+ Inclusion and Diversity Strategy. These aim to prevent “youth marginalisation, social exclusion and radicalisation, by addressing the issues of low education participation, unemployment and poverty (Youth Empowerment and Innovation Project, 2018, p. 47).

The European Commission (EC) highlights that adolescents and young adults as particularly vulnerable to recruitment, and that is why the EC emphasizes the need to broaden prevention efforts involving this group to foster their critical thinking about extremist messages (Aiello, Puigvert & Schubert, 2018).

The Paris Declaration issued by the Council of the European Union in 2015 highlighted the rise of extremism. Moreover, it emphasised the role of education, along with the need for cooperation across the European Union’s (EU) member states in order to guarantee that “children and young people acquire social, civic and intercultural competences by promoting democratic values and fundamental rights, social inclusion and non-discrimination, as well as active citizenship” (SALTO-YOUTH Cultural Diversity Resource Centre, 2016, p.1). These commitments have a huge potential in relation to the prevention of young people’s radicalisation, since they can be used to deal with young people who may be considered at risk. For instance, if a young boy has tools to mature his critical thinking, then when he faces with the scenario of being face-to-face to extremist messages on the internet, he will have the necessary tools to produce his own counter-narrative. Indeed, schools are among the best environments where young people can build up these skills since they should also provide students with soft skills and enhance their talents. Therefore as outlined previously, this is one way in which restorative justice can be implemented in schools.

Social exclusion and poverty have been increasing in Europe due to the economic crisis, and young people are the ones who suffer the most from this scenario. However, in order to tackle youth radicalization, the EU Youth Strategy recognizes the links between young peoples’ financial adversity and the risks of being radicalised. This Strategy has two main objectives. The first one is to provide more and equal opportunities for young people in education and the job market, while the second one is to encourage young people to participate actively in society (European Commission, 2018). These activities have a strong and powerful role in preventing youth radicalisation since they promote social inclusion and foment education, while involving young people in decisions that affect them directly. Allowing young people to
have the same opportunities in education is one of the first steps in order to deal with some social issues we are facing today, since this group tends to be the one who would probably get the most out of restorative justice practices.

The EU Work Plan for Youth 2016-2018 outlines which are the major concerns of youth policy at the European level. The priority has been given towards increase social inclusion of all young people, especially those who are at risk of marginalisation (young people who are “Not in Education, Employment or Training” – NEET) and those who are migrants (immigrants and young refugees).

According to the Youth Empowerment and Innovation Project (YEIP) Report of 2018, the problem with the current European action plans is that these were not finalized, without having studies available on the proposed measures. This results in a lack of work, projects and studies aiming to explore marginalisation and radicalisation of young people and GLM-based and Restorative Justice based approaches, at both national and international levels. According to the Youth Empowerment and Innovation Project (2018), another issue is the fact that these programmes are dependent on various funded programmes and their continuity is uncertain.

Although some schools in Europe are using programs that aim to prevent radicalization, these programs (e.g. Safe Schools and Programme Choices) do not necessarily involve concepts such as Restorative Justice and Positive Psychology (YEIP, 2018).

Therefore, in order to enhance further the social impact of prevention policies on extremism and to counter youth violent radicalisation, there is a need to take another step forward and include not only all young people’s voices, but also try to understand, prevent and intervene in these matters through a restorative justice point of view.

**CASE STUDY**

Over the last two decades, restorative justice has gained some roots in policy, law making and crime prevention, which resulted in big volumes of research and studies accumulated. The possibilities lying underneath Restorative Justice practices can also be seen in the emergence of policies and projects aiming to prevent risk factors that lead to violent marginalisation of young people. The EU Youth Strategy, European Agenda on Security and Erasmus+ Inclusion, and the Diversity Strategy have developed strategies with the intend to focus on preventing youth marginalisation, social exclusion and radicalisation, among other issues. Restorative justice does not appear among the tools these strategies have available.

Although it is imperative to refer one project that recur to restorative justice as one of main pillars, namely the YEIP Project.

**YOUTH EMPOWERMENT AND INNOVATION PROJECT**

In Europe, there is not a single policy aiming to prevent the radicalization of youth, “in general, and in schools, universities, youth offending institutions or online, in particular” (YEIP, 2018, p. 47). Indeed, this is where YEIP has room to grow, because its innovative ideas and approaches try to fill the gaps in the current European policies. Thus, YEIP’s “research assumption is that innovative solutions to youth radicalisation can be found within the normative and practical dimensions of restorative justice and the Good Lives model” (YEIP, 2018, p. 17).

The Youth Empowerment and Innovation Project (YEIP) is a 3-year Erasmus+ funded programme. By researching, validating and testing this assumption, YEIP tries to give a wider framework and to ultimately “develop an innovative, youth-led policy measure that will help address and prevent the factors that can lead to young people’s social exclusion and radicalisation” (YEIP, 2018, p. 17). The project has two main subjects, namely young people and professionals who can either work with them or be experts of radicalization. The reason behind this methodological choice has been to provide a better and more comprehensive answer to the issues. The project is implemented through the construction and field validation of tools in four environments, namely school, university, prison, and online. It aims to lay the foundations for systemic change at both national and European level (Youth Empowerment and Innovation project [YEIP], 2018).

The innovative policy intervention of YEIP aims to generate a set of actions that will help address the needs at the local, national and European level. This measure is originated upon the use of restorative justice approaches, positive psychology and the Good Lives Model (GLM). According to the latter, humans are goal-influenced and seek certain ‘goods’ in life, all likely to increase or improve their psychological well-being (Ward, Mann and Gannon 2007).

The comparative findings of primary and secondary research carried out in 2017 in seven European countries, on the
issue of youth radicalisation and on preventative, innovative approaches such as restorative justice, concluded “there is also a lack of a systematic mechanism for the prevention of radicalisation. The landscape is characterised by a series of experiences which locally try to intervene, directly or indirectly, on the theme, with enormous differences from country to country” (YEIP, 2018, p. 47).

The YEIP report also highlighted that there is a need to create accessible tools for professionals who deal/work with young people in order to help and equip them with appropriate skills which enable them to understand their biases and to engage them in the combat of radical narratives based on the GLM philosophy (YEIP, 2018). This is very important because educational strategies depend on the educator’s ability to identify challenges young people struggle with. These approaches and tools can also be helpful to connect professionals who deal with young people, as for instance teachers or professionals who work in the field of child protection. The preliminary findings of the YEIP (2018) project also concluded that there is “a need to develop and implement a set of support measures for socially disadvantaged and marginalized groups in parallel with prevention initiatives, in partnership with all relevant local and national authorities” (p. 48).

The truth is that “it is important to remember that young people are the only true experts when it comes to their own experiences” (SALTO-YOUTH Cultural Diversity Resource Centre, 2016, p.10), in a sense that they are the only ones capable to say what is it like to be a young person within a determined period of time. Therefore, YEIP is nothing but an attempt to ask for young people’s forgiveness and do something about the situation our society putted them into (Youth Empowerment and Innovation Project [YEIP], 2018).

By empowering young people, the European policies can contribute to successfully meeting the vision of an agglomerate of countries where this group can seize their own opportunities and relate to European values.

**CONCLUSION**

The European strategies that aim at dealing with violent radicalization and violent extremism are expected to reach a large number of young people. These young people have different backgrounds, motivations, and needs which the EU community is not fulfilling properly. Thus, the current strategies “must move beyond the power and interest battles that exist” at the European level in the European politics (Gavrielides, 2018, p. 20).

One of the pillars of the European Union is the free movement of goods and people. Consequently, people can move freely among countries despite of their country of origin and can benefit from a legal and sanitary protection. This means that a minimum of security should be given to all of EU’s citizens, regarding their beliefs, ethnicity or colour. However, this does not happen all the time. We keep on fearing the differences, and by feeding this “fear monster” we end up taking the security from the people who also have the right to it. Our actions put young people at risk because they might not find a safe space in school or within their communities, growing the odds of them to go find it somewhere else.

Efforts to prevent terrorism in the form of policies and specific actions have been developed over the last decades, and specific counter-terrorism policies have been implemented across Europe at the national and European level (Aiello, Puigvert & Schubert, 2018). However, there is a lack of systematic mechanism for the prevention of radicalisation. In other words, the landscape is characterised by a series of experiences which locally try to intervene, directly or indirectly, on the theme but with enormous differences from country to country (YEIP, 2018).

Firstly, to effectively address the drivers of violent extremism and promote peace, young must be engaged as partners to what it comes to the design and implementation of programmes that target them (Global Youth Summit Against Violent Extremism, 2015). In other words, public policies should target the implementation of their programmes based on young people’s knowledge, skills and specific needs. Children and young people represent our future and that is why they must have the opportunity to shape their own future. As a consequence, governments should combine efforts to prevent and tackle radicalisation, intolerance, and others social phenomena, in order to “preserve a framework of equal opportunities for all” (Informal Meeting of European Union Education Ministers, 2015, p. 5).

Secondly, these programmes would benefit themselves and young people as well if they would include a variety of activities like sports and arts. In this way, they could be complementary to school. Therefore, Europe and European society “cannot afford unexploited talent, social exclusion or disengagement among its youth” (European Commission, 2018, p. 2).

Thirdly, as the prevention of criminological phenomenon will work out better when it undertakes a holistic approach, it would be beneficial to involve families, educational institutions and community bodies, enhancing a work between them and young people.
The thing that seems to draw attention in the prevention and tackling of these phenomena is the huge need of soft power, such as education. Many approaches used today are reactionary, instead of focusing on the development of a more inclusive and equitable world. In other words, investing in soft power strategies is the “sine qua non” to effective actions and requires countries to simultaneously implement short, medium and long-term responses (United Nations Educational, Scientific and Cultural Organization, 2017, p. 2).

Schools should stop themselves from taking actions that are very likely to increase the likelihood of students to engage in problematic behaviours. If this is not considered, schools will be also responsible for the harm young people can cause. Simultaneously, not only schools but political bodies should continue to educate their citizens from all ages, in order to provide young people with a safer community. It is known that families can be a hotspot for problematic behaviours. When restorative approaches are implemented properly, they can make both schools and communities safer and proactive environments (Karp & Breslin, 2001; Varnham, 2005). In other words, with the use of Restorative Justice it is expected that every child in the world would be able to grow up in a school where they feel safe and where they learn to solve conflicts. “It would be a place where their views are heard and appreciated and where inappropriate behaviour or conflict is considered an issue for the school community to address in an inclusive compassionate manner using a healing circle, mediation or conferencing. However, there is always a hope. There are exciting times for restorative justice: “an idea whose time has come” (Hopkins, 2002, p.149).

There is a difference between a community and a group of people that share the same residential area. Indeed, many of us belong to a certain “community”, but the community itself does not act like one. Many times, it tends to despise certain individuals and stimulate a battlefield dynamic. According to Marshall, Shaw and Freeman, “a community does things together, is inter-dependent and cares about its members who, in turn, know their value” (2002, p. 8). Restorative justice approaches would be helpful to create the foundations for a cohesive community which like all the others has conflicts, but tries to solve them, in order to prevent an escalation of violent behaviours.

Education itself cannot prevent an individual from committing a violent act. However, providing education of good quality can help generate the circumstances that make it tough for violent extremist ideologies to thrive (United Nations Educational, Scientific and Cultural Organisation, 2017). Therefore, when trying to resolve this issue, the priority should be given not only to students’ cognitive skills, but also to their socio-emotional and behavioural skills. This is the only way that can make our approaches have results that are intrinsic, more everlasting and effective.

Schools assess an individual mostly on academic and sport results. In doing that, there is the potential risk to exclude all those students who do not fit none of these two categories. One of the consequences can result in the diminishment of self-esteem and sense of belonging. On the contrary, schools would be able to find alternative ways to recognize individual value of young people by means of restorative approaches, which aim to empower them. Socio-emotional and behavioural skills are well addressed by the practice of restorative justice but, as the paper has demonstrated, this is still not consistently explored in relation to both educational settings and youth radicalization. Giving students the tools to express their emotions clearly is an essential skill, when individual empowerment is at stake.

Schools are among the environments where there is a higher risk to label the person him/herself instead of labelling only the behaviour itself. The same happens also in different settings as social media and judicial courts. However, humans keep on feeding the use of stereotypes which lead young people to have the same behaviour. Feeding those stereotypes has led young people to have the exact behaviour we anticipated them to have. By using a restorative approach in school, we would be building a more solid playground for youth to grow and play in.

We can admit that schools are on a privileged position to make their member feel more valuable and secure, but this is more likely to happen when schools and public services can find a dynamic that links traditional and alternative approaches to education. By doing this, communities can aim to fulfil young people’s needs and to create a restorative environment.

Restorative justice needs to empower victims and offender and in order to achieve this; it needs to listen to European young people’s needs and to understand their realities, while considering the community where they live in. In other words, educational approaches (traditional or alternative) should not expect something from young people if they lack inclusive systems. If a local community or a school cannot effectively prioritize young’s needs and desires, then the outcome will be strategies and action plans scarcely effective. Therefore, we should not be waiting for young people to make mistakes. We should prevent rather than react and point fingers as soon as a bad thing happen. If there is a finger to point, it should not be to them, it should be to us, to our policies, to our political interests, to our constructed ideas that we cannot disrupt, to our lack of empathy. The problem will not be the solution to itself. We can empower marginalised young people and we can give them the tools they need and want. However, is it worth if they do not have a place where they feel secure? If they cannot find any support or opportunity? If we open our car door but keep moving and do not stop for them to enter, how can we expect them to enjoy the ride of life?

Restorative justice can have an important role in finding solutions because it focuses on the root causes of the behaviours rather than looking for a punishment. Moreover, it connects people on a human level. Due to Restorative
Justice practices, hate speech, bullying, radicalized behaviours and discrimination can be potentially decreased, thus creating responses to radicalization which are more about developing someone’s capacity to deal with and fight causes of these issues. Then, linking restorative justice to education would improve these practices on young people, who are the ones who have to shape the future and who can be both victims and perpetrators of radicalization. The truth is “offering and delivering it through a trusting relationship will determine the levels of its uptake and success” (Gavrielides, 2018, p. 21).

Restorative justice is less about crime and more about how communities and their individuals get along. The fear of not belonging is probably one of the main causes of today violence. Accepting and understanding the differences among individuals might be one of the greatest and more effective strategies to extinct not only violent extremism and marginalisation but many other social and criminal problems.

Regarding the purpose of the book, opinions suggested by some authors such as Weithkamp and Kerner (2002) in relation to restorative justice, are worthy to mention. Restorative justice can be seen as a reversion to ancient forms of justice belonging to indigenous practices and as such, it can give more space to practices which are not universally implemented. Indeed, restorative justice has ancient roots within indigenous communities who did not consider the crime as an act against the State, but as a social construct composed of real actions made by real persons. As such, the parties involved should carry out the resolution of the conflict, judges have only a marginal role in the dispute and the public assist the whole justice process (Christie, N. 1977). (N. Christie, Conflicts as Property, British Journal of Criminology, Volume 17, 1-15, 1977).

One of the most outstanding indigenous practices in this regard is the so-called psychadelphosyne, due to which a murder becomes the protector and benefactor of the family that has been affected by his crime (Fermor, 2006).

It is possible to affirm indigenous practices have contributed to delineate one of the core aspects of restorative justice, namely “they have demonstrated that justice practices may reflect an intention to repair harm rather than simply to inflict equivalent harm” (Van Ness & Strong, 2014, p. 16).

The overall purpose of the book is to bridge the East and the West, as well as understanding how empowerment is achieved in the East following restorative justice philosophy and the consequent implementation of its practices is a neglected area of research. So, it is even more important to leave behind the Eurocentric and West point of view of everything, even so because these constructed ideas of superiority are very deeply connected to the racism and marginalisation, and this chapter and book are all about what can result from these phenomena.

Generically, we dare to say that firstly there is an urgent need to give a voice to all of what there is “out there”, that doesn’t have the “Made in Europe” (or “Made in North America”) tag. Secondly, more comparative studies should be addressed, not only in the social sciences field but as well in law. Trying to take down the invisible walls that separate academically the East and West is urgent. Despite the two different realities, we are still not that far from each other and that we can still from each other.

By disrupting walls, people can find similarities above differences and restorative justice can be a tool in this regard.
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ABSTRACT

As an experienced user of Restorative approaches to Behaviour Management and whilst engaged as Programme Leader of Initial Teacher Training, research was undertaken with a group of post graduates studying for a Post Graduate Certificate in Education and QTS (Qualified Teacher Status)

The aim was to establish whether and to what extent, training in Restorative Approaches could influence attitudes towards behaviour management. Using face to face interviews with a group of eminent proponents of RJ, an attitude scale assessing punitive versus restorative thinking about behaviour management was developed and incorporated in a questionnaire consisting of 16 questions scored on a ‘Likert scale’ and 5 free text questions following scenarios typically found in classrooms.

Students completed the questionnaire before and after training in Restorative Approaches and attitude change was measured. Results demonstrated a substantial and statistically significant shift from punitive to restorative attitudes.

Limited to one cohort, further investigation would be valuable and could consider whether the shift was maintained once students started teaching. Encouraging teachers to think restoratively may not only improve behaviour management but also instil restorative thinking in pupils so they think less that punishment is the only appropriate response to bad behaviour in society at large.

The message from this chapter is that restorative thinking can be embedded in the

INTRODUCTION

RESTORATIVE PRACTICE IN SCHOOLS IN THE UK

Effective behaviour management and discipline in schools are important issues in the government’s agenda for improving school effectiveness. Indeed, behaviour management is a key standard which teachers are required to evidence within observed lessons and as well as being high on the government’s list of priorities, it is increasingly becoming a focus of Ofsted inspections. Restorative approaches to managing conflict and ‘bad behaviour’ in schools have gained popularity over recent years. The restorative approach is founded on the principal that reparation of harm should be the key purpose in managing conflict or bad behaviour. It does not accept the popular assertion that punishment should be an automatic consequence for those who have caused the harm. Restorative practice does not seek to apportion blame. However, the use of Restorative Practice in Primary schools sits within a traditional approach based upon rewards and sanctions where children are expected to exhibit conditioned responses to extrinsic motivation.

Having had experience of the effectiveness of restorative approaches in managing conflict and ‘bad behaviour’ I was keen to find out if training in the approach during ITE (Initial Teacher Education) courses could have an effect on attitudes held by trainee teachers. If a change of mindset towards restorativeness could be shown, this in turn might lead to more wide spread adoption of the approach by newly qualified teachers.

I have been interested in the use of restorative approaches to discipline and bad behaviour in the primary classroom for a number of years. During my career I have received training in the restorative approach and have implemented the strategies recommended through my personal practice in the classroom. I have been responsible for the dissemination of the principles of restorative practice towards achieving a whole school approach towards managing ‘bad’ behaviour.

My research was primarily aimed at informing understanding and knowledge about impact of training to my organisation but also it would enable me to reflect on how effective the input was in shifting attitudes.

The research was undertaken with a cohort of Post Graduate teacher trainees at Anglia Ruskin University over a period of 6 months between 2012 and 2013 The trainees’ attitudes to behaviour management were assessed against a scale developed for punitive attitudes versus restorative attitudes. Following the training input on Restorative Practice, the same cohort was surveyed again and shifts in attitude were examined. Part of
the training included some historical background on the Restorative circles used in other cultures. The training on Restorative approaches was part of the programme that focussed on behaviour management and was designed to empower trainees to consider alternative approaches from those commonly promoted in schools in the UK which often included punitive measures leading to isolation or exclusion.

With school exclusions on the rise in several areas of the UK it was thought that the inclusion of Restorative Practice approaches was an essential element that needed to be included for the sake of future generations of children and society at large. Despite reading the available literature on restorative practice and contacting leading publishers experts in the field of behaviour management using Restorative Justice, I was unable to find any tool to assess attitudes on a punitive/restorative continuum. I felt that if the success of the intervention was to be assessed it was essential to establish an attitude scale. This was thought by some to be an impossible task. The fact that the scale was developed from the qualitative face to face interviews makes the project unique.

The approach I used was to contact a number of eminent proponents of Restorative Practice and carry out face to face interviews. This element of the research was, by its nature, a qualitative study. From this I was able to develop a questionnaire to be used to survey the attitudes of the participating cohort.

The success of the project in shifting attitudes in this study makes it invaluable to educational settings in in the context of schools in the West. If the research could be replicated in the East and a shift in attitudes amongst trainee teachers was similarly demonstrated, it could also be invaluable in schools in the East. The training intervention delivered could be adapted for use in the East to reflect the culture and historical approaches to managing behaviour in educational settings but the attitude scale would be fundamentally unaltered.

Following the project, a comprehensive and detailed literature review of available literature in the field of Restorative Justice Approaches as applied in Educational settings was undertaken. This included a review of available literature that examined the use of Restorative Justice Interventions. No literature was found that examined how change in attitudes of Trainee Teachers following training could be measured.

THE RESEARCH DESIGN

The research took the form of an intervention aimed at shifting attitudes or trainee teachers towards Restorative Behaviour Management. To measure its impact, attitudes towards restorative behaviour management were assessed by use of a questionnaire.

1. QUESTIONNAIRE DESIGN

Given the need to gather data on attitudes towards behaviour management in school contexts and in general terms before and after the planned intervention, it was clear that some means of surveying attitudes was needed

No pre-existing questionnaire was available in the field of study. It was therefore necessary to design one. In order to gain an insight into the types of question to include in the questionnaire a number of purposive contributors was identified. Those chosen were all known to have consid-
erable knowledge of and understanding of the Restorative Approach and its use in the school context.

A visiting lecturer from New Zealand, Wendy Drewery, expressed an interest and willingness to be interviewed. Paul Howard, a researcher, trainer and published author in the field of Restorative Practice, and known to me through my own engagement with training, was approached and agreed to be interviewed. Martin Wright, a well know writer and International Campaigner for Restorative Approaches and extensively published in the field was contacted by email following my own reading of some of his work and also agreed to be included in my interview sample. Caroline Benham, an Inclusion and Engagement Manager, was known to me as having a very clear understanding and belief in the Restorative Approach to managing pupil behaviour. I therefore spoke to her face to face and she too agreed to be interviewed to inform my research. The final member of the interviewee group was Dr Paul Kiff, a criminologist with extensive experience on Youth Offending Panels and Research Methods Training at a London University. Through his work, he was fully in tune with the ideals of Restorative Justice and its use internationally within Criminal Justice Systems.

A total of 5 experts were interviewed face to face. The cohort of trainees for whom attitudes before training and after training could be analysed numbered 84. Trainees who did not complete the survey both before and after training were not included.

I was keen to elicit from the interviewees what they believed to be key indicators of a restorative or punitive mindset. Once all interviews were complete, I was able to draw up a questionnaire designed to assess attitudes towards behaviour management for use with students. This was done by examining the responses from the interviewees and how they defined attitudes of restorativeness and punitiveness based upon public responses to bad behaviour in society in general as well as how the criminal justice system in the UK responds to bad behaviour in society.. The interviewees were experts in understanding the ways in which Restorative Justice is used within the criminal justice system as well as the ways in which punishment is used within schools when responding to bad behaviour.

1. Research Analysis

Baseline information was gathered by asking respondents to grade the degree to which they agreed or disagreed with each of 16 statements before the proposed intervention and again following the intervention.. The statements were drawn from discussion with the interviewees as indicative of how attitudes could be assessed by looking at the degree to which responses demonstrated restorative or punitive attitudes. Respondents were asked to rate how far they agreed with each statement on a scale of 1 – 5. A score of 1 indicated a restorative attitude and a score of 5, a punitive attitude. The graph at fig1 shows the distribution of average scores obtained before the intervention.

Given that an average of 2.5 would indicate a student population balanced between punitiveness and restorativeness, the average score of 2.81 indicates that the wave 1 cohort is reasonably punitive in its outlook from the start.

Distinctly restorative responses were observed for the following 5 individual propositions:
Bad behaviour is a reaction to circumstance (Ave. score across all respondents = 2.26)
Promoting good behaviour is important (1.64)
Teachers should care about pupils (1.35)
It is important to try to understand the reasons for bad behaviour (1.29)
Children must recognise harm done (1.6)

Clearly punitive attitudes were observed for the following 7 propositions:

- It is the teacher’s responsibility to instil discipline (4.04)
- Teachers must control pupils (3.81)
- Rule breaking must be punished (3.46)
- Punishment is an effective deterrent (3.39)
- Punishment discourages copycats (3.59)
- Repeated bad behaviour should lead to tougher sanctions (3.38)
- Punishment can reform (3.52)

Following the training intervention, the main result of the data analysis process is that there appears to have been a shift in attitude towards behaviour management.

In most cases the change was a shift towards the restorative end of the scale. Change in attitude occurred for both male and female respondents although final average scores for the male respondents remained slightly more punitive than for female respondents.

The greatest shift in attitudes was seen for the group who were more punitive before the training and the smallest shift was seen for the group that were already more restorative before the training.

Figure 2 below shows the pattern in shift of attitudes

This chart shows a range of changes with some negative scores indicating a shift towards punitiveness and those above 0 indicating positive scores towards restorativeness.

This chart shows that the majority of responses shifted towards the restorative end of the spectrum represented by positive differentials. The degree of shift is indicated by the wide range of response differences ranging between .00
If it could be shown that the changes observed in the analysis were sustained and applied in practice, there are a number of areas which could be further investigated. It would be interesting to consider changes in the actual intervention. This was a small scale intervention with delivery on one day for one and a half hours. In order to exact further changes on the attitudes of male respondents, it would be worth analysing the strategies that could be developed that might have a greater influence on shifting the mindset of males. A further consideration could be to conduct an investigation to establish to what extent any shift in attitudes is sustained; whether or not a sustained shift in attitude influences practice post-qualification bearing in mind the constraints and systems that exist within primary education settings.

The possession of a restorative approach to discipline and ‘bad behaviour’ is not without some oppositional constraints within which it can be applied. As advised in almost all change management guidance, (e.g. Oakland and Tanner, 2007), the success or failure of any innovative practice depends on the extent to which there is whole school support for its adoption. I have found in my own professional experience that this is especially true when trying to move towards restorative approaches to managing behaviour. This is because almost all staff responsible for managing behaviour in most UK schools are not only steeped in punitive mindsets but also subjected to often simplistic official advice on non-evidence-based effective ways to handle pupil behaviour, (e.g. in the UK, the so-called zero-tolerance approach and incorrectly-specified understandings of the carrot and stick analogy).

2. DISCUSSION AND IMPLICATIONS

The analysis of the data from this small scale quasi-experimental research design with an intervention seems to suggest that attitudes towards managing behaviour in the classroom can be changed through training. It is recognised that in order to rigorously test the validity of this claim, a randomized controlled trial would be necessary. Analysis of the data in this study points to the importance of further research which would include such a trial as the evidence from this study is a compelling indication of substantial impact which was also statistically significant. This leads the researcher to suggest that further work in this area should be undertaken.

If attitudes towards behaviour management have been changed as a result of the intervention this is of significance to providers of Initial Teacher Education and suggests that consideration to further development in such interventions could be important. Initial Teacher Education (ITE) refers to the means by which students can become fully qualified teachers in the UK. It may follow a degree in a relevant curriculum subject or school phase such as Primary Education or it may be provided part time whilst unqualified and organised through consortia of schools.

The thoroughly comprehensive literature review carried out for this research project (but not included here) noted the lack of research in the field of Initial Teacher Education and research that has been carried out tends to focus on improving curriculum or assessment systems. One study carried out on behalf of Teacher Advice Consultancy in 2006 tried to establish change in attitude of trainees towards behaviour management before and after training. However, this study did not include an intervention designed to change attitudes. In this regards, this research study seems to stand alone.

Menter et al. (2010) point out that much research in the field of Teacher Education lacks a scientific approach and the Research Assessment Exercise carried out in 2008 concluded that most research in the field of Teacher Education is concerned with curriculum development. This research study has attempted to be scientific and had at its heart a wider impact on outcomes for children by attempting to change attitudes amongst trainees that might impact on learning opportunity in general.

It was recognised that the intervention had less of an impact on changing attitudes amongst males when compared to female participants. Further investigation into how aspects of the intervention might have a greater impact on males could also be undertaken. For example, part of the training did involve examination of transactional analysis and further investigation in use of restorative language. However this part of the intervention took place after the data was collected and so no analysis of the impact of this part of the intervention has been undertaken.

If it could be shown that the changes observed in the analysis were sustained and applied in practice, there are a num-
ber of implications to be considered for children, schooling and society.

Zehr and Mika (1998) describe restorative justice as a system of justice which seeks to repair a breakdown in relationships caused when people or relationships have been violated. Offenders have an obligation to repair the harm, to put things right and the needs of victims are paramount. Marshall (1999) states that restorative justice should be seen as a problem solving approach whilst Wright (1999) suggests that the response to crime should be to put right the harm and not inflict further harm on the offender. Howard (2009) points out that the ownership of behaviour and conflict lies with those directly involved and it is they who hold responsibility for resolving the problem. It is this attitude that is the underlying principle explored in the intervention which was carried out in this research. In a school context this can have far reaching implications for children.

If children can be enabled to understand that they have the responsibility for repairing harm done to others by their bad behaviour, this will have a longer lasting affect than if an authority figure such as a teacher, simply decides on a punishment. It has been found that where restorative approaches to managing conflict are applied in schools a new ethos is established in which all those involved feel they are listened to and carry an equal responsibility to find a solution.

Children managed by more traditional approaches come to expect that a punishment will be given. In the long term, this can lead to exclusions and disengagement with schooling and education. If children are exposed to a restorative approach it may be possible to reduce the number of exclusions which occur from primary schools. This non-restorative approach rarely seeks to meet the needs of children who exhibit the offending behaviour. The apparent needs of others including the school are judged to be more important than the perpetrator including the need to be listened to and the need to make amends.

Zehr (1995) cited in Hopkins (2004) suggests that for schools to adopt a restorative ethos as opposed to a retributive, punitive ethos requires a paradigm shift. It is such a shift that the intervention described in this research study sought to begin. It will be necessary to support trainee teachers to maintain and apply any shift in attitude that has occurred. Not least because of the difficulties of maintaining such a restorative attitude in a more traditional retributive setting.

Society would undoubtedly be the beneficiary of this reduction in excluded pupils. More children would complete their education without having been disenfranchised along the way. This may in turn lead to better employment prospects for the future.

If trainee teachers can be presented with these principles during their training, if this affects their attitude and if this attitude is sustained and applied, outcomes for children, schools and society could be very positive indeed. Furthermore if children learn to think restoratively as a result of the way in which adults working with them have been trained to think restoratively, there is a greater chance or Restorative Justice being accepted as a viable approach to the management of offenders in society at large.

If its advocates are right, this should lead to a more effective response to crime and criminal behaviour. The criminal justice system in Britain could move towards the adoption of systems in other parts of Europe where reparation and rehabilitation is the key purpose of the criminal justice system.

**CONCLUSION**

When Restorative Justice is considered in educational settings and policies it is sometimes difficult to know where to start. There are so many pressures from government and policy makers to be seen to be keeping society under control and ensuring that misdemeanours and antisocial behaviours do not go unpunished.

At the heart of Restorative Justice is the philosophy that there should be an opportunity for the perpetrators of such behaviours to recognise the harm that has been done and be empowered to make amends, to put things right. Societies across the world are faced with the challenge to make things better for their citizens. The underlying philosophies of ancient societies such as Aboriginal people in Australia or First Nations in America or Canada enabled both the perpetrator and the harmed to come together to find solutions. If Nelson Mandela was right in his assertion that ‘Education is the most powerful weapon which you can use to change the world’, then that is where we should start.

Whether in the East or the West or all the countries in between, it is the educators that must think about how young children can be empowered to make good choices and learn to behave well for their own good and the good of others. If educators are to be empowered to do this, training in Restorative Justice approaches is imperative. The research project undertaken in this paper clearly demonstrated that attitudes to managing behaviour can be shifted.

Further research needs to be done to see if the training leads to a permanent shift and belief in the value of using restorative approaches in managing pupils and can be replicated. The work done in this study could be of great assistance...
in developing training programmes in educational settings. The concern is that current policy on teacher education in the UK is reducing the time spent in training with only a small proportion of training time given to learning about behaviour management. Being able to influence policy makers is a difficult challenge facing practitioners in educational settings. If more research is shared between the East and West, this might happen sooner than we think.

Education in the UK has, for many years, been influenced by countries from around the world. Policy makers seem focussed on improving standards and to this end gather information about attainment in a narrow set of curriculum subjects across countries. A programme for international comparisons in attainment in Reading, Maths and Science is carried out every 3 years. It is run by the Organisation for Economic Co-operation and Development (OECD) and is known as the Programme for International Student Assessment (Pisa) It surveys performance of 15-year olds and the results are published in a league table. UK policy makes compare scores obtained in Reading, Maths and Science across 72 countries worldwide including those obtained by UK pupils. For several years, countries in East Asia have dominated the top of the tables. Singapore, for example, consistently ranks highest in Reading Maths and Science with the result that UK policy makers on education have tried to gather information about the way that teaching is approached and organised in the top-ranking countries. In a global economy it is natural to seek to compete with the best.

Despite increased pressure from Government to ensure standards are improved, the most recent advice to schools issued by the government monitoring body Ofsted (Office for Standards in Education) was that teachers and schools need to be judged not only on their results but by the richness of the curriculum and the way in which they make provision for wellbeing of their pupils. If the same interest and commitment could be developed by policy makers to make comparisons worldwide regarding conflict resolution amongst young people and examine evidence for the benefits of using Restorative Justice approaches in managing anti-social behaviours of children and young people from the start of their formal education, perhaps we could begin to combat the current rise in violent acts being carried out by and upon young people in the UK. It is possible that a global solution could be sought to reduce exclusions from school. In addition, comparisons could be made with the apparent rise in the numbers of children and young people in the UK who are experiencing mental health problems.

The UK is not an island but part of a world that shares similar problems. Research shared could help us all find solutions. Those who have passion for and belief in the use of RJ approaches need a global voice and a willingness to seek opportunities to share what works in educational settings. Good quality research on how RJ approaches in educational settings could help and support children and young people to resolve the issues facing them. Shared knowledge from West and East might in turn result in higher attainment. The research explored in this chapter is unique in several ways not least of which is that it examined the effect of training in RJ approaches on the attitudes within trainee teachers. This is a good place to start.
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RESTORATIVE JUSTICE IN SCHOOLS: LESSONS LEARNED FROM POLAND

The Example of Gdańsk Centre for School and Peer Mediation

ABSTRACT

Restorative justice history in Poland includes models of introducing it into schools. First efforts to teach children and youngsters how to repair or redress the damage have been introduced as intermittent projects, in which pupils of one or few schools were taking part, so their scope was very limited.

In this chapter, the history of introducing restorative justice into schools over a dozen years will be presented, and experience with other countries (Ukraine, Lithuania, Georgia) that have just started educational activity in this field will be mentioned. The Polish Mediation Centre (earlier – Group for Introducing Mediation in Poland) activity and several early projects will also be presented. Then, profound analysis of the Gdańsk Centre for School and Peer Mediation will be discussed (one of the authors is its driving force, co-inventor and the programme provider). The programme has been implemented in the city of Gdańsk area. The program concept, detailed tasks and events connected with the Centre activity, as well as the networking people and institutions, are to be described.

Then, the document “Standards of introducing and carrying out school and peer mediation” will be presented. It was elaborated by the team of experts (among them one of the authors) set up by the Commissioner of Children Rights in Poland.

The chapter will conclude with remarks

1. A BIT OF HISTORY OF DEVELOPING RESTORATIVE JUSTICE PRACTICES IN POLISH SCHOOLS

Looking at the history of applying mediation in Poland – first in the area of labour law, then late nineteen nineties victim-offender mediation - the dynamic development of various models of peer and school mediation should be noticed.

Among the Polish pedagogical ideas, certain solutions close to those proposed by restorative justice have been developed many decades ago. Korczak (1920, 200-261) has initiated the amicable court of children from his orphanage that was commented later as “an active form of solving relational problems among pupils” (Pyżalski 2018, 40).

Already in nineteen seventies. Kamiński, eminent pedagogue, has proposed a method of youth therapeutic groups, when they were first got to critically reflect their behaviour, that should lead to emotional decision to improve it and to elaborate corrective action plan. Another method of working with youngest scouts was the “circle of counsel” consisted on the meeting of a whole group and common searching for the solution of appearing problems and conflicts between its members. Even in case of negative opinions on the behaviour, the reaction of the group has had restorative character and has been far from punitive (aiming to cause suffering) one (Kamiński, 1974, 272-274; 1998, 110-129).

Introduction of peer mediation in Poland is based on the experience of American schools of the nineteen seventies and then on British. As far as theoretical basis is concerned, one of the most often quoted in Polish pedagogical literature authors is Jim Consedine, whose book “Restorative justice. Healing the effects of crime” was published in Polish in 2004.

The first program was introduced by the Polish Centre of Mediation in 2001 (Grudziecka & Książek, 2009, 330-331). The proposal of applying mediation techniques, when counteracting aggression and violence, was directed to several gymnasiums. The reason of choosing this kind of schools was that 90% of juvenile offenders that took part in the experimental VOM program (1996-1999) were in the same age group as gymnasium students, aged between 13 to 15. On the beginning there were few-hour trainings for students and for teachers aiming on change of attitudes to-
wards conflict and learning communication skills, followed by contest of knowledge about restorative justice. The pilot contest has been carried out in 12 schools from all over Poland, thanks to the support from the Children’s Rights Commissioner, Ministry of Sport and Education, Stefan Batory Foundation and UNICEF. The interest with the subject has been high, so in 2003/2004 Polish Centre of Mediation carried out the program aimed on preventing violence and aggression and on education in the field of mediation, followed by the contest on solving conflict without violence and on knowledge about RJ in Poland in 26 gymnasiums. This program was inviting whole school society – teachers, administrative workers, students and their parents. Students who have completed special training might become peer mediators. On the beginning, despite significant interest with trainings, schools demonstrated a kind of reluctance in referring cases to mediation (being probably afraid that admitting the existence of educational problems might influence the evaluation of their work and the school position in the ranking). However, schools have noticed the need to solve conflicts before they escalate, using mediation more and more often (Grudziecka et al., 2009, 331). Further on, many authors programs have been carried out by NGO’s, like Stowarzyszenie Interwencji Prawnej (Society of Legal Intervention), local mediation centres in dozens of cities and town, local self-government and governmental educational departments, President of District Court in Lublin, by schools taking part in certain European programs - Safe School or Democratic School without Violence. Numerous publications and materials have been elaborated (among them also short films) many training courses, meetings and conferences have been carried out. However, it is impossible to provide numbers on such events, as well as on peer and school mediation practise in whole Poland. Some authors have pointed out few years ago, that this method was still little known and spread throughout Poland and, as compared with other countries, mediation was used on a small scale in our country, even though students have a positive attitude towards it (Wojtkowiak & Potaczała-Perz 2014, 135-150). The initiatives usually are carried out in few schools that declared will not only to educate, but also to organize peer and school mediation. Most recently, there is more and more information on new programs in new places. The Gdańsk Centre of School and Peer Mediation is a special example, where the program that is dedicated to all schools in the region. Before describing its particularity, let us point out, that generally the idea to prevent aggression, violence and social maladjustment by introducing mediation techniques at schools has been officially accepted as important and efficient tool of psycho-pedagogical help. Provisions concerning school mediation have appeared in Regulations by the Minister of Education on the rules of delivering and organizing psychological and pedagogical help in public preschools, schools and institutions of April 30, 2013 and of August 9, 2017 (Journal of Laws of 2017, item 1591, states in § 23 item6) , that one of the tasks of pedagogue and psychologist in preschool, school and educational institution is, initiating and carrying out mediation and intervention activity in the critical situation. Mediation is also one of elements of legal education in schools. So - there are certain legal provisions enabling for applying mediation to solve conflicts at school.

The first experience in introducing mediation in schools has been spread to new regions, institutions and abroad. Such a direction seems to correspond with the evidence found in this book – restorative justice has been practicing in the West and the East. For example, in 2008 Polish Mediation Centre, together with organizations from Russia and Ukraine, have carried out international project “Restorative justice and mediation in schools as the form of building the civic society among youth” financed by the Stefan Batory Foundation (set up by George Soros). Its goal was to implement the peer mediation program in Russia and Ukraine and to train mediation educators from that countries. Co-operation with Ukraine is being con-
2. HOW FAR CAN WE GO? - GDANSK CENTRE FOR SCHOOL AND PEER MEDIATION

The basis and experience were given by action programs, that have been carried out in by the local division of the Polish Centre of Mediation in Sopot and then in the whole region of three cites -Gdansk, Gdynia, and Sopot. Those initiatives were dealing with school mediation treating it as the element of civic education. They have included spreading Polish mediation experience to Ukraine (Mediation Group of Lugańsk District). Two programs have been carried out, in 2013 and in 2014 respectively. There were trainings for teachers and students in Gdansk and then in 8 schools in Lugańsk. As a result, in each of them Mediation Clubs have been established. From those repeated programs the idea of the Gdańsk Centre for School and Peer Mediation has developed.

On November 15, 2014, based on the agreement between City Hall of Gdańsk - Department of Social Development and the Polish Centre of Mediation (Division in Sopot) Gdańsk Centre of School and Peer Mediation has been established. It cooperates with Gdańsk District Court, Higher School of Social Psychology and the Scientific Circle of Arbitrage and Mediation of the Law and Administration Faculty of the Gdańsk University. The Centre activity is available to all public educational institutions in the whole municipality, of all levels (including even pre-schools), that makes significant difference with previous programs in Poland, that usually were carried out in certain schools only. Another feature is co-operation of municipality, courts, mediation organization and schools. As far as courts is concerned, family judges have expressed appreciation to the Centre activity as mediations give a chance to avoid many debates in the Family Court, as the problem may be solved at school. The legal basis is art. 32 j §1 of the Act on Treatment of Juveniles of 1982 (Journal of Laws of 2018, item 969). This provision allows for referring the case of the juvenile, upon his/her consent, i.e. to school, when the family court consider the educational measures of the school sufficient. Art. 3 a, of this law, providing for the possibility to refer the case to victim – juvenile offender mediation, should also be mentioned.

There are other particularities regarding the proposed model of school and peer mediation - a cooperation of school and peer mediators. Therefore, young peer mediators are not left alone with the conflicts, that sometimes may be too difficult or escalate; they are helped and supported by adult school mediators.

Main goals of the Centre are:
• Running the consultancy and information place;
• Trainings for students (peer mediators) and for teachers (school and educational mediators);
• Carrying out mediations.

The Gdańsk School and Peer Mediation Centre offer help to students, their parents and teachers.

In the beginning, mediators working in the Centre have trained all directors of educational institutions, providing them with the knowledge on mediation as a tool of educational work and with mediation skills important for managing. Then the trainings for students and teachers – in separate groups. Students equipped with mediation knowledge and skills set up mediation clubs in their schools. Then, the network of educational institutions working with mediation method was created in 2016.

Mediation model of the Centre put the emphasis on supporting peer mediators by their tutors: school mediators. It is a group of teachers, who has also competed mediation training. Their role consists on qualifying cases to mediation (not all conflict between students are manageable by their peers), on seeing whether the process of peer mediation goes correctly and on intervening in the situation of stand-off or escalation of emotions, evaluating each meeting with peer mediators and planning further mediation meetings.

Other conflicts and disputes in the school are being referred to mediators - teachers. They carry out mediation sessions in resolving conflicts other than between students (like student – teacher, teacher – parent, a class – teacher). School mediators, except from carrying out such mediations, supervise and educate peer mediators. In the school year of 2017/18, around 300 students and 90 teachers from the city of Gdańsk have been trained. Next step is implementing this knowledge into practice. So, mediation sessions were carried out at schools. It would be too early to speak about
statistics and numbers. What is important as practical impact, that however cannot be measured, that the persons trained demonstrates in their schools’ different attitude towards conflicts and it influences the others and contributes to the atmosphere in schools. Peer and school mediators undertake reaction when they notice such situation. They set up Mediation Clubs in their schools, they involve students’ parents. Children invent the club logo, T-shirts, and how to organize such place in school, even painting the room themselves. They actively promote mediation also outside schools - in municipalities, courts in other schools. They are presenting mock mediation there. It should be stressed, that trained students and teachers are staying in touch with the Centre, they continue developing their skills. An interesting form of this is Summer Academy – combining learning with leisure. Teachers and students from different regions of Poland take part, that enable integration. The number of those willing to take part increases. The new idea for 2019 is organizing international summer academy of mediation, with the financial support of the City of Gdańsk.

Good practise of Gdańsk spreads around in Poland – as the result, Wielkopolska’ Centre for School and Peer Mediation was established by municipality leaders, involving organizations that carry out mediations, educational institutions and judicial organizations and courts. Gdańsk and Wielkopolska Centre co-operates i.e. by organizing during summer and winter holidays Academy of Mediation for students.

It is much easier to deliver basic information on the Gdańsk Centre for School and Peer Mediation than to describe all what is going on there, sharing the atmosphere, energy, enthusiasm, spirit, and satisfaction and joy when after planning their activity students and tutors go for a pizza. Lots of workshops, trainings. Experienced peer mediators present, for instance, how mediation is carried out, during trainings for new teachers involved. They have shown mock mediation to Gdańsk family judges. Another challenge for this young people was presenting, on their experience in the role of peer mediators, during the International Conference “Legal education of school children and mediation at school – in light of theory and practice” co-organized by the Ministry of Justice and organization „Trygg Læring” (Safe Learning) in Warsaw, in October 2017. The audience has appreciated them very much. Maybe also thanks to mediation activity their social skills have developed. Sometimes photos tell a story better than words, so it is worth to have a look at the Centre pages in the internet.

3. STANDARDS OF SCHOOL AND PEER MEDIATION

The idea to introduce good quality restorative justice programs for young people has been strongly supported by the subsequent Commissioners for Children’s Rights, especially by Marek Michalak, who was holding this post between 2008-2018. He has been stressing, that mediation always benefits – individual - for those taking part as well as indirect on the level of changes in school understood as the institution, influencing the culture of handling conflicts and positive relationships between teachers and other person working in school, pupils and their parents, in the situation of dispute. Marek Michalak has pointed out, that thanks to mediation youth is learning how to solve conflict, mutual respect, creative thinking and openness to other ideas. Constructive conflict solving stimulates development of social skills, preparing pupils to live in democratic country (Retrieved at https://brpd.gov.pl/aktualnosci/rpd-przygotuje-standardy-mediacji-szkolnej-i-rowiesniczej).

He has appointed a team of experts, consisted of 10 persons - mediators (among them author of this report K. Stryjek), academics, teachers, psychologists, judges who were meeting regularly since October 2016. One year later, a set of comprehensive documents has been elaborated based on the experience of school and mediation programs gained in Poland. In these documents one can find a glossary with precise definitions of the terms, that sometimes have been used interchangeably in practise, such as school mediator and peer mediator. There are separate sets of documents concerning school mediation and peer mediation. Each set consist of two parts: first part deals with process of preparing the school and students for implementing mediation program, second contains rules and the course of mediation. Then there are codes of ethics for both groups of mediators.

In the introduction to this document, the recommended standards are not legal rules, but indications and guidelines for those willing to introduce restorative justice programs into educational institutions.

In this part there are also statements, that might be useful not only for Polish practitioners, but are of general character and may be accepted in each part of the world. It is explained, that school is a kind of laboratory, where knowledge and social skills of children and youngsters develop, and also one of places, where one meet inevitably the “world of conflicts”. Patterns of behaviour that have been got in childhood, also at school, are being used while functioning in adult life. Time of learning at school is a period of psychosocial development of a child, of learning skills of dealing with situations of conflict. Promoting patterns of constructive conflict solving expands educational methods and stimulates socio-emotional skills of pupils. It enhances identity, dignity and respect for another person, and prepares children and youth to live in civic society.

Traditional way of dealing with conflict is handling them from the position of authority emerging from the role of a
director, educator, pedagogue, psychologist or a teacher. The alternative to traditional method of handling disputes is mediation, understood as voluntary and confidential process, in which competently prepared, independent and impartial person, when parties agree, help them to handle the conflict. Mediation allows for determining points of disagreement, overpassing communication barriers, elaborating solutions proposals and, if the parties wish, to reach a mutually satisfactory settlement. The strength of mediation comes from the conversation of the parties of the conflict about this, that disunite, common searching for solutions and conscious taking responsibility for elaborated agreement. Mediation protects rights and interests of the parties to the conflict. It contributes to build relationships between teachers, other persons working at school, pupils and parents even in the situation of conflict, as well as positive image of the school or educational institution. Mediation introduces the culture of dialog and of common responsibility for creating the atmosphere at school.

Then, in the Standards, basic terms are explained.

Peer mediation has been defined as seeking, voluntary and confidentially, to solve conflict between pupils, in the presence of two impartial and neutral mediators – pupils, that has been prepared to lead peer mediation; conflicts deal with matters bounded with relationships between pupils. 

School mediation definition is based on the same principles, but here it might be just one mediator (not necessarily two) and the conflicts deals with matters bounded with human relationships and/or statutory activity of the school. The parties of the conflict may be teachers, school director, other person working at school, pupils and parents. 

School mediator should be an adult person, as for example pedagogue, psychologist, other person employed at school, trained in the field of mediation, authority and confidence figure at school society. It is recommended that school mediator is a tutor of peer mediators, being competent as mediation educator (trainee).

Both documents concerning the process of introducing peer and school mediation, elaborated by the team of experts and the Commissioner for Children’s Rights, begin with the statement: “Bearing in mind the necessity to build safe and child-friendly school, to create conditions to developing social competences of students, acquiring skills to handle conflict situations, it is recommended to introduce peer mediation according to the following standards.” We present here concentrated information combining main statements from both sets of standards, as those concerning peer and those for school mediation do not differ very much.: 

Introducing peer mediation at school/educational institution should be predated by organizing meetings in order to deliver information on mediation school employees, parents and students. 

It is necessary to get the consent of the Director, Pedagogical Council, Council of Parents (or School Council) and the Students Board for introducing mediation understood as an important method of solving conflict between students. 

Implementing peer mediation should be included in the school statute and in other documents dealing with organizing school/institution activity. 

Coordination of the activities bounded with introducing peer mediation is a task of the person chosen from the employees of the school/institution. It is recommended that this person become the tutor of peer mediators; it might be more tutors of peer mediators in one institution. 

Starting mediation programme should be announced to the school/institution community via information campaign, for example at internet page of the school, newspaper, poster, special meetings, lessons etc. 

Before choosing candidates for peer mediators, information meetings concerning interpersonal conflicts and methods of dealing with them (including mediation) should be held, with the help of representatives of various organizations. 

Candidate for peer mediator should be a student enjoying confidence of his age-mates, whose age, self-reliance and level of maturity allow for understanding the essence of the conflict, mediation and the point of view of another person (preferably over 10 years of age). 

Candidates for peer mediators are chosen by the students. Peer mediators should complete a training (minimum 20 hours) on peer mediation and this should be confirmed by certificate. Training should include basic information about conflict, emotions in conflicts, constructive communication, rules and process of peer mediation, role and tasks of peer mediation, simulations of mediation, ways to promote mediation at school. Tutor of peer mediators is responsible for the way of choosing candidates as well as for organizing a training.

Acting as a peer mediator depends on the consent of the candidate and his/her parents.
It is recommended to create at school/institution (possibly with the help of certain institutions or organizations) a centre, club or mediation circle, composed of peer and school mediators and to elaborate its rules, model documents and the manner of retaining them.

School mediator may be the person working at school/educational institution, who has completed at least 40-hours training, confirmed by certificate. The training should include basic psychological knowledge on the mechanisms of conflicts arising, escalation and solving; procedures of conflicts (negotiations, mediations, arbitrary, court) – according to the rules elaborated by the Social Council for ADR by the Minister of Justice of October 2007

School/institution should take care of continuity of training further groups of peer and school mediators.

Documents concerning mediations should be kept by the mediators’ tutor in a manner providing confidentiality and personal data protection.

Mediation should be carried on in a place that is neutral, peaceful and offering confidentiality and the feeling of safety, at school/educational institution, in a manner that do not disturb organization of those institutions.

The need to carry out mediation can be reported by students – parties to the conflict, teachers/educators, psychologist, director, other person working at school or parent; this request may be directed to the peer/school mediator, mediation tutor or to every person working at school.

Tutor of peer mediators co-ordinates and supports peer mediators on every stage of mediation and – when needed – after it is finished; he/she qualifies cases to peer mediation considering a kind of conflict and readiness of students to take part in mediation, skills of peer mediators and legal provisions.

Peer mediation involves: qualifying the case to mediation and choosing mediators (this is a task of the tutor, however mediators could be indicated also by students), preliminary meetings with each party (carried out by peer mediators), common meeting (or meetings), and, at the end, settlement and elaborating the agreement to be signed, than report on the course of mediation – whether agreement was reached or not, supervision meeting with peer mediators tutor (when needed it might be at every stage of mediation), implementing the agreement.

Mediation rules are as follows: voluntary participation – students take part only when they express such will, that may be withdraw at any time; impartiality – mediators do not support any party of the conflict; neutrality – peer mediators help to find a solution without imposing them; acceptance – the mediation rules and concrete mediators are to be accepted (it is possible in justified situation to change mediator); peer mediator in justified situation may resign to carry out mediation. There are certain limitations of the principle of confidentiality, that should be explained before mediation starts – information on abusing, committing the offense, using psychoactive substances should be reported to the tutor by peer mediator.

The goal of the elaborated Code of Ethics of Peer Mediator is promoting ethical attitudes of mediator, based on the respect to another person, considering the empowerment of the parties to the conflict, creating trust to mediator and mediation as the method of peer conflict solving. Compliance with the Code principles enables keeping high standards of carrying out peer mediation. Main statements of the Code refers to: being well prepared for carrying out mediation and to caring for developing skills and knowledge about mediation; to such conduct that enables students - parties to the conflict – understanding what mediation is, how is its course and what is the role of mediator; to the help in finding the solution of the conflict without indicating own ideas; taking care to respect mediation rules – before, in train and after mediation is finished. Peer mediator should not undertake – or should resign of carrying out mediation when is not certain of possessed skills or remaining impartial; the decisions of the parties are respected according to the rule, that the most important value is the best interest of the parties.


All documents in the set of standards has been developed by experts for those who might be not experienced yet in the field of mediation at school. Therefore, all matters are being expressed in a clear and detailed way. We find here definitions, recommendations on how to prepare introducing both kinds of mediation into school society, ground rules as well as practical steps to be undertaken in the course of mediation. It is important to include ethical rules and values, as well as explaining the context of handling conflict in the way that empowers children, in opposition to the traditional way.
As it has been already mentioned, the standards elaborated by the team of experts are available in the internet and they are being already used by those who like to include them to their trainings and programs. Quite recently, Ministry of Education seems to have interest in the idea of unifying and popularizing standards for Centre for Education Development (Ośrodek Rozwoju Edukacji – ORE). The Centre has created another team of experts – with mediators, judges, Ministry of Justice and Ministry of Education representatives (among them again one of the Authors of this chapter – Katarzyna) . This team has met at the end of 2018, and on the basis of the mentioned above standards of Commissioner for Children’s Rights has elaborated guidelines for the Ministry of Education, as well as scenarios of classes for the teachers who would implement mediation in theirs schools and scenarios of workshops for peer mediators. Those materials and guidelines has been submitted to the Ministry of Education. In the moment of writing (March 2019) there is not any feedback yet.

4. REFLECTION ON THE LESSON LEARNED

Let us start with the reflection, that it is good to learn out of the experience of those, who have already experience in introducing school and peer mediation - either good or bad; from the best programs but also from the weakest, to be aware of the various barriers that may occur. The possibilities to exchange information and views is not to be overestimated. This book would provide a forum serving this purpose. Its ambitious goal is also contributing to better understanding of circumstances and ideas important for implementing restorative justice practises in countries in different parts of the world. Explaining all ideas behind the practice or concluding with giving advices or suggestions is more difficult than just describing what had been done. Advertising programs of school and peer mediation should not be done ex cathedra -with complete authority and overconfidence;with the attitude that the one more experienced knows better what would fit the other before knowing various conditions. It should not take form of a special, licensed offer, that should be taken without possibility of tailoring it to the tradition, legal system, customs and system of values. Therefore, lesson learned in Poland (or anywhere) should serve just as the basis for reflection for those who are shaping their own programs. They should also remember, that there is already quite a lot of available materials, toolkits aimed at leading through the process of implementing mediation to school, in different languages – let us mention the most recent: “Implementing a European Model for Restorative Justice with Children and Young People. Toolkit for professionals” published by the International Juvenile Justice Observatory (retrieved at http://www.ejjc.org/sites/default/files/vol_iii_-_toolkit_-_european_research_on_restorative_juvenile_justice.pdf) . It is better to search for good practices than to “discover America again” (sic!) than to learn only on own experience and mistakes.

For all that reasons it was better to start with presenting experience gained in our country, to enable those who creates their own vision of the program of peer mediation, to reflect themselves on certain solutions, whether they would fit to the circumstances in their countries. The next step is to refer to the ideas behind the practice of school and peer mediation in Poland. It is always important to refer to the values and goals. To the most important goals, that were envisaged in mentioned programs, belong: building the culture of dialogue, improving social skills, civic education, counteracting hate speech, non-violent handling conflicts, preventing aggression at schools, preventing violence or social maladjustment. In the literature, as theoretical foundations of restorative justice program for youth, the concepts of children’s rights, subjectivity of juveniles and their empowerment are being referred to.

The concept of children’s rights has been one of the most important to justify RJ programs for youth. It should be remembered, that it is Poland who has proposed elaborating the Convention on the Rights of the Child, in 1978. First draft has been elaborated in the Institute of Law Studies of the Polish Academy of Sciences by the team of professor Tadeusz Smyczyński, and the working group created by United Nations Human Rights Committee to lead the works on the convention was chaired by Adam Łopatka – professor in the same Institute (Krawczak-Chmielecka, 2016, p. 15). After the concept of children’s rights, the subjectivity of children should be mentioned. It is being enshrined in the Article 12 of the Convention, stating that States Parties shall assure to the child who can form his or her own views the right to express them freely in all matters affecting the child; the views of the child being given due weight in accordance with the age and maturity of the child (paragraph 1). For this purpose, the child shall be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law (Art. 12 .2). Also, Article 40.3 of the Convention should be mentioned, as it contains indication for the States Parties on laws and procedures concerning juveniles, concerning measures for dealing with children conflicting with the law without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

The main idea, of dealing “in the best interest of the child” expressed in the Convention as well as in the Polish Act on Juveniles, should be mentioned. Despite it is generally beneficial, it might justify quite doubtful attitudes. Jonathan Simon (Simon, 1994, 1369) has stated, that “it has become painfully obvious that for many people much of the time, the real choices, when they exist at all, are between dependence on institutions that justify their power on the best interests of the dependent subject, and institutions that do not bother trying to justify their power with reference
to the dependent subject at all” . Simon has quoted a historian David J. Rothman: “We no longer share a belief in the possibility of the state acting as a parent to decide in the best interests of the child. We no longer even trust to the biological parent to act in the best interests of the child” . Another bitter opinion is, that childhood is nowadays being treated as a period, in which youngests first should be protected and restricted in theirs actions “for their own best interest” and being prepared them for the next stage of their development (Rothman, 1979, 34 and 67; see also Czanneka-Dzialuk, 2019).

Restorative practices are important for developing juvenile’s subjectivity and empowering them because they are based on active participation. The sense of agency is strengthened, as the juvenile learns about the consequences of his/her acts for the victim and for others from the surrounding and by the fact, that the juvenile’s decision to take part in restorative program contributes - and is even needed - to make it happened. The sense of responsibility is being developed by creating conditions for the juvenile to learn cause-and-effects relationships and to shape an appropriate awareness of the consequences of one’s behaviour. This increases probability of changing the motivation of the juvenile’s behaviour, thanks to creating circumstances to develop an empathic attitude. Evidence from neuroscience and the capacity for restorative problem-solving to promote moral development and emotional regulation, resulted from neuroscientist Dan Riesel’s work might be the basis for such expectations. Also Affect Script Psychology (ASP) explains very clearly how we are biologically wired to live in good relationship with others – and why restorative approaches to problem-solving are biologically sound - as in the works of Silvan Tomkins and his Affect Theory (1962), of Don Nathan son (1992) and Vick Kelly (2012, 2014) – their works are quoted in Restorative Justice Pocketbook, 2009.

CONCLUSION

The most important is – and this is common for the East and for the West – that implementing such innovations like mediation into schools should be well prepared. It should not happen as something unknown, strange, just imposed by law without sufficient explanation. Then appears reluctance.

For certain it is not enough to consider, that if certain program goes well on West, it should be the same on East. The method of solving conflicts among youth by mediation is proven to be successful, but the programs of implementing it should be adapted to the local tradition and circumstances. Poland belongs to the Eastern part of Europe, and the idea of mediation have come from the West. It was highly appreciated, that experts from the West teaching us about victim-offender mediation in juveniles’ cases in mid-90’s of XX century have been stressing the need to tailor programs to our circumstances, not to “buy” their “licensed product”. Therefore on the beginning different circumstances of the concrete country should be analysed. Searching in history, values, ancient ways of solving conflict situations, legal solutions and pedagogical ideas usually results in finding something common to the methods offered by restorative justice. Thanks to this mediation might be perceived as something fitting to this country and be easier accepted by the society. It is necessary to look for something fitting to the new idea in the old tradition and culture, that would be like fertile soil, on which new ideas may blossom much more beautifully as on the artificial ground.

When constructing the program of mediation at schools it would be recommended to stress the great potential of restorative justice in building children’s subjectivity and in empowering them.

Another justification is, that mediation develops one of fundamental social competence – of dealing with conflicts - and therefore should be promoted.

It would be recommended to start with “bottom-up” local initiatives and programs. They should be developed with ongoing evaluation and modification. Then they might be started in other places, who later on could networking.

However, it was found that in a certain moment, it is recommended to elaborate common rules and standards and to promote them on national level. Thus, systemic approach is also needed. Support of governmental institutes or ministries and other – like Commissioners for Human/Children Rights is of great value to implement elaborated standards. In this field there is still a lot to be done.

It should be recommended also to start a program with information and promotion of mediation among teachers, students and their parents. Then whole school society should be engaged in implementing mediation in practise. I

We would advise to train in each school students as peer mediators and teachers as school mediators, Adult mediators would support peer mediators, when conflict would appear too difficult to deal with it.

If it would be impossible to find enough support for peer mediators at their school, certain mechanism is necessary to make them feel safe and not to be overstretched by carrying all problems and conflict on their shoulders (like providing
help and consultancy of experienced mediation organization).

We have learned how important is the cooperation and support of various entities, especially local self-government. It would make programs generally accessible and stable, so such cooperation should be developed.

Engaging in co-operation programs (also international) may open new opportunities and sources. Cooperation should not evolve in unhealthy competition, which normally – like in the contests being organized in our country – are mobilizing and inspiring. This direction should develop – also to the East.

Last, but not least, the barriers that have appeared with introducing victim-offender mediation with juvenile offenders has also given us a lesson. Despite very good results, judiciary is reluctant to use it more often. Among different barriers, to the most important belongs those related to the culture of solving problems (Czarnecka-Dzialuk 2016, 66). Teaching young people at schools another way of thinking about conflict and alternative ways of solving them, and about themselves as of the powerful human beings having potential to make own decisions in this matter, might change this cultural barrier.
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PART II: 
LESSONS AND EXPERIENCES FROM THE EAST
INTRODUCTION

While power imbalances between teachers and students in hierarchical cultures like South Korea might inhibit the growth of democratic norms that foster student voices in schools (Pearce & Wood, 2019; Mitra 2009), it is important to consider the benefits and mechanisms by which student voices can be empowered. Creating sustainable structures for student voices means fostering an equitable and respectful environment in educational settings (Mitra, 2009; Varnham et al, 2014).

One tool to create spaces that empower student voices is Restorative Justice (RJ). Originally introduced in educational settings to deal with school violence and conflict, the philosophy of RJ has brought a paradigm shift within relationships among members of school settings, including teachers, students, parents, and administrators (Morrison et al, 2006; Morrison & Vaandering, 2012: Park, 2014; Park, 2018). Power sharing is one of the main frameworks of RJ in schools (Morrison et al, 2006; Vaandering 2013).

Power sharing is one of the main frameworks of RJ in schools (Morrison et al, 2006; Vaandering 2013). Vaandering (2013) is one of the pioneers of this though process in RC. As Vanandering suggests, by virtue of the hierachicy inherent in educational settings, adults can control youth via RJ practices. The word, control, derails the core philosophy of RJ practices which is based on equitable relationships. Vaandering offers a new model, the Social Relationship Window, as a an alternative structure that not only provides student voice but also implies and a reciprocal relationship among members of school communities.
RJ practices have the capacity to create a school culture with more equitable and democratic relationships (Morrison et al., 2006; Vaandering 2013; Park, 2018). Developing care and trust in school cultures is one of the key goals RJ practices pursue. Vallet et al. (2014) demonstrate that RJ practices contribute to creating a safe and caring space for students to speak up in a classroom with confidence. This helps students acquire more skills to share their points of view inside and outside the classroom.

Creating an equitable and respectful environment is critical in fostering student voices in educational settings (Mitra, 2009; Varnham et al., 2014). While a growing body of literature demonstrates the relationship between valuing student voices and practicing RJ in schools, little research exists in showing how to create an equitable and respectful space in schools through RJ practices. Most empirical research on the effect of RJ practices on youth empowerment in the Western world deals with the context of conflict resolution and school discipline. This chapter is based on qualitative research that was carried out from July in 2018 to February in 2019 at a middle school in Incheon, South Korea. I explore the relationship between implementing RJ practices and fostering student voices by assessing the implementation of RJ practices within the school system. This case study demonstrates how RJ practices can work for creating an equitable and respectful space for student voices in a cultural context in which student voices have typically not been prioritized.

RJ MOVEMENTS IN EDUCATIONAL SETTINGS IN SOUTH KOREA

A passion for social change in South Korea grew after the Sewol Ferry Disaster. On 16 April 2014, the Sewol Ferry, with 476 passengers (including 325 high school students) on a sank off the southwestern coast of South Korea en route to Jeju Island. This tragedy left more than 300 people dead, injured, or missing. Most were high school students. The sinking of the Sewol severely traumatized the public (Woo et al., 2015). South Korean youth were major groups who experienced post-traumatic stress disorder as most of the victims were high school students on a school trip.

This tragic accident turned out to be a human-made disaster with multiple contributory factors. Economic, social, political pressures as well as human error contributed to the disaster (Kee et al., 2017). In particular, the government’s mishandling of the disaster made the public distrust toward the political system (Do, 2015. Following the Sewol Ferry Diaster, South Korea’s Candlelight Revolution—a democratic and nonviolent movement from November 2016 to March 2017—called for and led to the impeachment of President Park Geun-Hye (Safarti, 2019). In this sense, The Sewol Generation refers to those South Koreans who were in their teens and twenties at the time who experienced a major political awakening in light of the Sewol Ferry tragedy (Jang, 2018).

Because of the importance of the ferry disaster on The Sewol Generation, it is important to point to some of the societal and cultural dynamics that were at play on the day of the ferry disaster. As the ferry began to sink, the ferry passengers (soon to be victims) were told to “stay inside” their cabin with their flotation vests on. The students, given the hierarchical nature of South Korean culture, were dutifully listening to their teachers. The tragedy raised significant questions nationwide. “What contributed to the students just listening to the order of their teachers?” To what extent does the cabin experience serve as a metaphor of the Korean education system in which there is a focus on listening.
rather than raising questions, critical thinking, and taking action?” In particular, students, who were traumatized by this tragedy, began to question if they could learn from adults who were bound within such a hierarchical system. This led to active youth participation in The Candlelight Revolution to make social change. Moreover, educators, who were also traumatized by this tragedy, started to reflect on how the hierarchical system and culture of schools might affect South Korean education and what education should be for The Sewol Generation.

Youth in South Korea thus became agents for social change in light of The Candlelight Revolution. More than 50% of students from South Korea nationwide participated in the movement. However, according to a survey by The Candlelight Youth Association for Establishment of Youth Rights Laws (2017), the majority of South Korean youth experienced discrimination and violation of human rights in schools and regard South Korea as a country of unfairness and oppression to youth.

A significant amount of research demonstrates the challenges South Korean education face in terms of youth and adult relationship. Teacher-authority, though historically and culturally strong, has weakened in South Korea with the decline of Confucian values and the growth of Western democracy and individualism in society (Kim, 2013). The high dependency on private education for securing elite college education has reinforced the absence of authority in Korean schools (Kim, 2013). More than 65% of teachers report that they have experienced a loss of teacher authority. Kim (2013) observes that schools have failed to find a structure in schools which can foster sustained, empowered student-teacher relationships.

RJ recently emerged in South Korea following the tragic death of a middle school student from school bullying in 2011. The South Korean Ministry of Education initially responded to this concern about school violence with a zero tolerance policy, but teachers’ associations, such as The Movement for Good Teachers, and peacebuilding organizations suggested alternatives to school violence like RJ (Park, 2018).

RJ practices in school settings are much broader than RJ in juvenile and criminal justice settings since schools are primarily developmental institutions (Morrison et al., 2006; Park 2014). Dealing with conflict and violence in schools was the gateway, but not the end, for schools to employ a philosophy of RJ. Moreover, the philosophy of RJ has grown since being applied to school settings in South Korea. Park (2014) argues that RJ is not just a framework for conflict resolution; rather, it is an educational praxis to cover different areas of education. This was reflected in the transition of the first book to be published on introducing school-based RJ practices in South Korea. That book, Restorative Discipline in Schools, adopted a new title to Manual of Restorative Justice Practices.

Along with its grassroots-led movements, other stakeholders in education including the Ministry of Education, the provincial offices of education, and superintendents, started to adopt RJ in practices at schools. In 2014, the Gyeong-gi Provincial Office of Education made RJ practices its formal policy and distributed 5,000 copies of Manual of Restorative Justice Practices to all elementary, middle and high schools in the region. So far, all of the provincial offices of Education have held teachers’ training of RJ practices. In 2017, the Seoul Provincial Office of Education provided new teachers with a required training program on RJ practices. In 2018, the Ministry of Education encouraged local schools to solve minor conflicts between the students through mediation led by teachers.

While RJ practices have the capacity to create a school culture with more equitable and democratic relationships (Morrison et; Park, 2018), this domain has not been studied. Little academic research exists that explores how school-based RJ practices empower youth in school settings.

The purpose of this study is to fill that lacuna and explore how RJ practices induce changes within educational culture from one that merely emphasizes disciplining students toward one that emphasizes empowering students. The author of this study implemented a conducted a case study of Shin-Heung Middle School (SHMS) in Incheon, South Korea to examine how RJ practices could strengthen the student body and empower their voices.

This study fills a significant gap regarding the effectiveness of RJ practices on youth-adult relationships in South Korean schools. This study will primarily seek to answer the following key question: How can restorative practices in schools empower students in South Korea? Research questions related to the study include:

- How can RJ practices create a respectful and equitable space to promote a democratic learning environment in schools?
- What is the relationship between RJ practices and student voices?
- How can RJ practices help create a more sustainable culture for youth empowerment in schools?

The hope of this author is that this study builds a bridge between school-based RJ practices and youth empowerment. My
findings suggest that RJ practices can cultivate a new relationship between students and teachers that may be useful for schools, educational policies and Korean society. This study also unpacks more of the knowledge of the effects of RJ practices in educational settings with implications for youth empowerment across the globe. The extant literature surrounding youth empowerment does not fully examine its relationship with RJ practices. On one hand, a good deal of research demonstrates the importance of creating an equitable and respectful environment to fostering student voices in educational settings (Mitra, 2009; Varnham et al, 2014). On the other hand, a growing body of literature demonstrates that restorative justice practices help create safe and caring spaces for students to speak up in the classroom with confidence (Vernham et al, 2014). Therefore, this research bridges the gap between RJ practices and youth empowerment.

METHODOLOGY

In order to address the above research questions, the author undertook an in-depth qualitative case study in collaboration with a school in South Korea which has implemented RJ practices focusing on youth empowerment. Student-voicelessness and the relative ineffectiveness of traditional authority are problems in the Korean educational system. One of the main goals of the present study is to raise awareness of the importance of school-based youth empowerment, i.e., “to critique and challenge, to transform, and to analyze power relations” (Merriam and Tisdell, 2016, p. 59).

The author of this chapter is a former middle school teacher who implemented RJ practices in South Korea. Thus, the researcher is mindful that she has a mix of insider/outsider status that can potentially affect the participants who were interviewed for this study (Merriam and Tisdell, 2016) and affect the dialectic. (Merriam and Tisdell (2016, p.64) emphasize that researcher reflexivity in the form of qualitative research “is a dialectical process that affects and changes both the participants and the researcher, at least some extent.”)

Three schools in South Korea were identified as having implemented RJ practices focusing on youth empowerment (Park, 2018). Shin-Heung Middle School (SHMS) expressed interest in joining in the present project after the author introduced the study, endorsed unanimously by all faculty at the school.

The research project comprised of the following:

Interviews with all of the student activity liaison officers since the school implemented RJ practices. Two of the participants were the directors of the Department of Restorative Justice Practices and Safety (RJPS) at SHMS. In-depth one-on-one interviews were conducted with a set of semi-structured open-ended questionnaire.

Analysis of documents and visual materials. This includes school policies and materials published by the school, student-surveys on RJ practices by the school, the school website, photographs of school activities, an unpublished master thesis about the school on a faculty learning community. Additionally, research produced by South Korea’s Institute of Education Policy, on ways to strengthen the student body, was reviewed.

The analysis began with open coding. Interview scripts and written documents were reviewed several times to identify patterns that emerged from the data. These themes were coupled with information from the corresponding literature.

FINDINGS

VALUING STUDENT VOICES

While RJ was originally introduced in educational settings to deal with school violence and conflicts, its philosophy has brought a paradigm shift among teachers and personnel in schools (Morrison et al, 2006; Morrison & Vaandering, 2012: Park, 2014; Park, 2018). Conflict resolution was a gateway for the teachers of SHMS to incorporate RJ into their pedagogy. At the outset, SHMS adopted restorative circles to respond to school violence and deal with conflicts in a peaceful way at SHMS. However, restorative discipline itself did not bring about conflict transformation. Acknowledging the need to build a respectful and safe community, SHMS bought in a whole school model (Morrison & Vaandering, 2012). A whole school model is characterized as an intentional space responding to all relationships in schools (Morrison & Vaandering, 2012). At the heart of RJ practices in education is a new paradigm to see who students are. From this perspective, students are valued as human beings to be honored rather than objects to be controlled (Morrison & Vaandering, 2012). As Vaandering (2010, p. 171) observes,
“RJ has the potential for penetrating the very fabric of the institution and people come to know they are respected, have a voice, and have opportunity to be agents of change. Institutional structures and those in charge are no longer intent on retaining power and dominating but instead see institutions and leadership roles as organic with the purpose of supporting and encouraging humanization.”

In the early stages of implementing the whole school model, power imbalances between teachers and students emerged. How could students and teachers work hand-in-hand to create a respectful environment given the hierarchical nature of South Korean education and culture? Although SHMS already had a culture of friendly and positive relationships among teachers and students, it could not ensure guarantee equitable relationships between teachers and students from the outset. The first director of The Department of Restorative Justice Practices and Safety (DRJPS) has once remarked:

*The positive relationships the teachers and the students built was the groundwork for fertilizing RJ practices. The students knew that teachers wanted to treat them respectfully. However, it was not enough. Experiencing respect as a student cannot be established through positive relationships with teachers because of the power imbalances between them. In a school setting, teachers bring much more power than students. For balancing power, teachers should let their power go.*

Furthermore, introducing RJ practices as a whole framework of pedagogy at school guided teachers to be aware of the perspective from students. Embodying the philosophy of RJ practices, teachers raised awareness of fostering students voices at school. The second director of DRJPS said:

*Initiating student empowerment was somewhat new for teachers. Frankly speaking, adults held a prejudice that middle school boys were “immature, poor at self-expression, frustrating, and non-communicative”. These sentiments kept us from making a change and culture that makes students happier.*

In spite of the fact that RJ practices value sharing power in all school relationships, the dominant and hierarchical structure and culture in some schools have impeded power sharing among teachers and students (Vaandering 2013; Mitra 2009). Thus, teacher-centered practices have tended to prevail in RJ movements in educational settings (Vaandering, 2013). In light of this, directors of DRJPS remarked:

*Most schools implementing RJ practices are teacher-centered. To me, teacher-centered RJ practices have limitations in fulfilling the philosophy of RJ helping generate a more respectful environment for the students..... There have been many pedagogies to improve education. I think RJ practices offered a new paradigm of education in terms of youth empowerment.*

*I value student-centered education of SHMS. If the students don’t experience speaking up here, I feel like they hardly experience it before they become adults. I will not stop supporting students in speaking up in schools until their voices are heard.*

Fostering student voices was one of the main goals to build a new culture of shared power with the students. To strengthen student voices, Circle Process was practiced vigorously across the school for conflict resolution, community building, curriculum, and communication. The first learning experience students, teachers, and parents had at SHMS was Circle Process. The second director of DRJPS remarked:

*A Circle is one of the best structures for restorative justice in educational settings. It helped to create a safe and equitable space at SHMS. In Circles, all of the students could share their own stories. They learned all voices were respected and valued in Circles even the minority opinions were expressed. We, the teachers, hoped that the school was not just practicing Circle processes but holding the beliefs of Circle processes.*

Practicing Circle processes, the students at SHMS felt respected, heard and emphasized. They learned how to listen to others and to respect minority opinions. They experienced their opinions as accepted in the process of decision-making for school events and rules. At the school council, Circle processes motivated them to raise and share their opinions (Institute of Educational Policy in Incheon, 2017). The director of DRJPS has once pointed out the following:

*Today, a graduate visited me, who was once a student representative. He joined a student council at his new school expecting the experience he did at SHMS. He was frustrated with the environment in that he could not speak up freely. It discouraged him not only from sharing his ideas but also in coming up with new ideas. It seemed like the curriculum of his school focuses too much on academic performance for college entrance exams. What if the students did not have the experience in which their student voices were valued at SHMS? Probably,
they did not have any experiences in which their voices were heard until they had come to SHMS.

Likewise, a culture of valuing student voices contributed to creating a safe space. Vice versa, it is conducive for creating an environment that fosters youth empowerment (Jennings et al, 2006). While the term safe space varies (The Rose-toen Collective, 2014; Redmond, 2010) in terms of freedom of speech and self-expression, the student activity liaison mentioned,

*SHMS is a safe community for the students. They learned that It is ok to reveal myself in school. It is ok to speak up with my voice.*

Furthermore, the intentional focus on equity in relationships with the students by the teachers facilitated sharing of power among the students. The first director of DRJPS once mentioned:

*As time went, the students bickered each other more. In the past, they did not do that; those who had more physical strength would bully others. Ironically, the number of holding restorative circles increased after the training was offered.*

**STRENGTHENING THE STUDENT BODY THROUGH INSTITUTIONAL MECHANISMS**

Strengthening the student body was a way to empower student voice initiatives at SHMS. In early stages, the school adopted a representative-centered student body model based on restorative communication. Despite the fact that it was conducive to cultivating a culture the student council learned Circle processes in meetings, the school faced challenges as follows:

*The model of a representative-centered student body shaped the students to regard the student body as the activities for and by the student representatives, rather than for and by all students. The items the student council submitted became the agenda for homeroom meetings. It turned out they reflected only the needs and interests of those who had voices: the student representatives and teachers. In the end, it led to less interest and participation of the students in the meetings.*

Thus, in the following year, the school introduced a homeroom-centered student body as a new institutional mechanism. In contrast to the top down approach in the past, this new mechanism allowed all of the students to be involved in raising their voices as well as the student council to embrace diverse voices. This bottom up approach encouraged the students to speak up. It also enabled them to discuss the items in the meetings according to their needs and interests. Indeed, a homeroom where students learned and spent most of their time at school became a space to increase their agency. By raising the awareness of issues and figuring out ways of problem-solving via Circles, students were empowered.

*One of the big differences of the student body at SHMS is that there is an institutional mechanism of using circle processes within every community of the school. While there are schools known for their success with the student body, there is no school that using Circle processes every meeting except for SHMS. Even schools which adopted the model of the student body at SHMS do not implement Circles for all meetings. The strengths of the student body of SHMS are consistency and sustainability.*

The mechanism of Circle Process makes it possible for this consistency and sustainability. In the early stages of empowering the student body, SHMS established Circle Process from teachers’ meetings to homeroom meetings. It permeated school culture. A norm now at SHMS is that students sit in Circle for all meetings.

Another factor for the success in Circle Process at SHMS was that students have support from advisors through a training workshop. The efforts of the students alone seem to be unsuccessful. Indeed, strengthening the student body is a collaborative work of students and teachers. Specifically, it is critical for teachers to provide quality guidance for success (Mitra, 2009).
The role of teachers was that of supporters. In homeroom Circles at SHMS, each homeroom teacher was one of the participants. The Circle keepers were class presidents and vice-presidents. They were supported by advisors and a student activity liaison officer. The first student activity liaison officer mentioned:

At the outset, when the keepers brought the item up they would discuss in homeroom and I wrote the script for them.

SHMS provided support to sustain a system of a homeroom-centered student council. Advisors assisted Circle keepers to prepare for the Circle and reflect on the process upon the completion of the Circle. The student activity liaison served as back up. In doing so, the students developed leadership and communication skills. The third student activity liaison described:

Homeroom-centered student council cannot work alone without the support of the student activity liaison officer. The guidance by other teachers is critical. For example, experienced teachers encouraged students to value the spirit of Circle when the Circle did not work. But, this was an ideal. It took time for the teachers to embody the philosophy of Circle Process. Every year the school had new teachers. That’s why SHMS established this mechanism. The advisors of each grade supported the circle keepers and homeroom teachers. Multi-communication for support occurred among the advisors, the Circle keepers, the homeroom teachers and the student activity liaison.

Additionally, education by RJ consultants strengthened the student body. As shown in Figure 2, RJ specialists outside of the community supported all levels of the student group.

Figure 3 presents the details of the education, program, participants, contents, and the frequency. The student activity liaison described what she experienced during the workshop for the Circle Facilitation:

During the training, the inexperienced group learned how to write a manual for Circle Process and how to facilitate it. The experienced group reflected on their experience in Circles such as skills, improvements, and challenges. I participated in the Circle for the experienced group. I learned that what the students experienced as the Circle keepers was like what teachers did. The challenges were not keeping the guidelines of Circles, not listening to others and keeping passing the talking piece without speaking. In the Circle, the RJ consultant asked the students, “What makes Circles work?” What they said surprised me. They said, “respecting those who don’t keep the guidelines, who don’t listen to others actively”. Also, “respecting a minority opinion” and “giving an opportunity to those who don’t speak” were mentioned. They learned the key foundations of Circle process. That made the consultant and me proud of them.
There were power dynamics new students and teachers brought to the community. For example, some of the new students tend to prefer making a decision by majority vote in meetings in favor of efficiency of time. However, the consistency of the practices of Circle process across the community worked. When the students become 9th graders, they felt comfortable establishing a consensus by listening to minority opinions (Institute of Educational Policy in Incheon, 2017).

**YOUTH-ADULT PARTNERSHIP EMERGED**

RJ practices are conducive to creating a reciprocal space in school communities (Vaandering 2013). Although schools are often dominant and hierarchical in power (Vaandering 2013; Mitra 2009), high support based on high expectations and accountability enables two-way of interactions between teachers and students effective in making changes (Vaandering 2013).

Youth-adult partnerships emerged at SHMS by valuing students’ voices and strengthening the student body. Youth-adult partnership, as defined by Jones & Perkins (2004) and Camino (2000), is a reciprocal relationship both adults and youth can have with a shared leadership and commitment to organizations (as cited in Mitra, 2009).

In terms of a shared leadership, as the research data demonstrated earlier, the teachers shared their leadership with the students in the process of discussion and decision-making. Specifically, all of the extracurricular school activities were conducted by branches of the student body. In addition, as peer mediators, the students were involved in conflict resolution in the community, more effective than strategies used by adults (Mitra, 2008). This shared leadership had a positive influence on youth-development including increases in their agency, a sense of belonging, and competence (Mitra, 2009). The second student activity liaison officer commented:

> The students have a sense of ownership. They think it’s their school and they are the owners. They are not spectators. I observed this when the students visited neighboring elementary schools to promote SHMS. Becoming the presenters at neighboring schools became a competitive enterprise because many students wanted to do it. At the outreach, the students looked excited, proud, and had fun talking about what they did.

When it comes to commitment to organization, adult-youth partnerships required teachers to put in extra energy. This does not mean there was equality of roles among youth and adults (Mitra, 2009). Rather, it implies collaboration and cooperation among teachers and students. Indeed, it requires intentional appropriate guidance and coaching by adults (Camino, 2000). The director of DRJPC mentioned,

> It requires so much energy to support student-led activities. The student activity liaison needs to take care of and guide the students. And I experienced burn-out when the students did not take their responsibilities seriously.

<table>
<thead>
<tr>
<th>PROGRAM</th>
<th>PARTICIPANTS</th>
<th>CONTENTS</th>
<th>TIME DURING THE SCHOOL YEAR</th>
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<tbody>
<tr>
<td>Orientation Camp</td>
<td>Student council</td>
<td>Circle process for planning yearly goals and</td>
<td>8 hours</td>
</tr>
<tr>
<td></td>
<td>Student activity liaison</td>
<td>agenda of the student council</td>
<td></td>
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<tr>
<td>Workshop for Circle</td>
<td>Student council</td>
<td>Circle keeper training</td>
<td>21 hours</td>
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<tr>
<td>Facilitation</td>
<td>Student activity liaison</td>
<td></td>
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<tr>
<td>Reflection Circle of the</td>
<td>Student council</td>
<td>Circle process for reflection on the yearly</td>
<td>4 hours (twice a semester)</td>
</tr>
<tr>
<td>semester</td>
<td>Student activity liaison</td>
<td>activities of the student body</td>
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<tr>
<td>Nonviolence/Peace</td>
<td>All students</td>
<td>Circle process for building connection</td>
<td>4 hours (twice a semester)</td>
</tr>
<tr>
<td>education</td>
<td>Homeroom teachers</td>
<td>Different topic by grades</td>
<td></td>
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<tr>
<td>Peer mediation workshop</td>
<td>Peer mediators</td>
<td>Two levels: Basic/ advanced workshop</td>
<td>10 hours</td>
</tr>
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<td></td>
<td>Advisor of counseling</td>
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</tbody>
</table>

Figure 4. Education Program of Circle processes for student body
The former student activity liaison officer also worried about the programme’s sustainability:

This year, it seems that the student-led activities were supported mostly by the student activity liaison. When I was the student activity liaison, I intentionally shared what was happening in the student-led activities. I understand the student activity liaison was concerned about giving pressure on other teachers to taking care of the students in their extra time. So, she gave more roles to the students and the teachers did not participate in guiding the students as much as they used to. I wish more teachers were involved in working with the students. Otherwise, the teachers don’t know about what the student-led activities were like. Next year, the student activity liaison is moving to another school. Then, a teacher who has not worked with the student body can then be the new student activity liaison.

Asking questions were a way the teachers and the students at SHMS communicated. When teachers asked a question or made a request, they premised their communication on the notion that students had agency of making a choice. Specially, when things went wrong or they needed support from one another, they shared ideas by asking questions. A teacher remarked:

One of the students asked me why the teachers didn’t say anything about those who did not wear their school uniform according to the school rules. I answered, ‘I think I have compassion for them. I don’t think yelling or pushing them will work.’ He responded, ‘Are you waiting for them, not ignoring them?’ I said, ‘Yes, thank you for asking.’ When students are curious about the actions of their teachers, they come and ask. I think they have trust in us and compassion to understand us. Vice versa, when teachers need help and support they proposed an item to the student council. The student council discussed if student body was available to support this item or not.

### DISCUSSION

This chapter attempted to demonstrate a bridge between RJ practices and youth empowerment by examining student voices as a tool to strengthen the student body.

Three challenges were found from the interviews. First, the transfer of teachers among the public schools kept teachers away from developing a full implementation of professional and practical model of RJ practices. Second, hierarchies between students and teachers deeply rooted in Korean culture were a challenge. Last, the model of Circle meetings of SHMS spread without an explicit agreement of a standardized RJ philosophy.

RJ practices are a new mind set of pedagogy. Teachers theoretical and practical professionalism of RJ practices is critical for its sustainability (Varnham et al, 2014). In the system of public schools in South Korea, teachers move to another school every five years. Unfortunately, SHMS have new teachers every year. So far, the new teachers felt overwhelmed by practicing RJ practices for the first time. Therefore, the experienced teachers provided support with the inexperienced teachers. For example, the experienced teachers ran a faculty learning community to train RJ practices to the new teachers after school. Empowering student voices itself requires enormous commitment on the part of teachers (Mitra, 2009). In addition, the teachers needed to do extra work due to constant rotation schedule of roles.

Moreover, the rotation schedule kept teachers from sharpening their RJ practices over time. For instance, although the student activity liaison officer wished that she would work for the student body next year, she had to leave for another school. Perhaps, in the next year, one of the teachers would need to take up the role of the student activity liaison officer without previous experience. Regarding to the professionalism of RJ practices, theoretical and practical training for teachers at the undergraduate level is necessary in addition to on-the-job training through teaching students (Varnham et al, 2014).

Another challenge involved the obstacles of fostering youth empowerment in a school setting where there are culturally internalized hierarchies between adults and youth (Mitra, 2009). Although SHMS has developed good seeds for embracing student voices in decision-making, the scope of impacting student voices in decision-making has limitations. The traditional hierarchical teacher-student relationship in South Korea does not welcome student voices in decision-making. This was especially true for those issues in which a majority of teachers held differing opinions from their students. A stronger decision-making structure including teachers, parents, and students is needed to empower student voices as an agency of making change in school. When talking about the process of decision-making with the former student activity liaison, she wished:

_I do not think the teachers accepted just every idea from the students. Regularly, the student representative attended teachers’ meeting to share students’ opinions. The school changed the rules regarding school uniforms_
and basketball according to students’ voices. However, when the opinions were different from the majority of the teachers’, it was a different story. In the end, the representative followed the idea of the majority of the teachers. Thus, I believe a decision-making structure better reflecting the unique needs of teachers, students, and parents is needed.

Lastly, there is a concern about using Circle Process without the consent of all involved. At the local level, the model of Circle meetings of SHMS has been widely accepted. Empirical research by the Institute of Education Policy in Incheon has demonstrated the effectiveness of student voice initiatives based on Circle Process. It is noted from the research that eight middle schools and two local representative student councils had their meetings in Circles. Overall, the research data showed that Circle Process was more popular than traditional processes in terms of creating a safe space, building a cooperative and respectful culture and making a decision democratically (Institute of Educational Policy in Incheon, 2017). However, practicing not grounded in a philosophy of RJ practices is questioned.

Although the research has shown the helpfulness of the Circle process, an absence of a philosophical framework of RJ practices is as important as its sustainability (Vaandering, 2013). Some welcomed the movement other schools in the region in that the structure of Circle itself would bring a culture of valuing students voices and sharing power with the students. On the other hand, others worried about its sustainability and authenticity of implementing RJ practices without a cultural change.

Additionally, the Department of Policy for Democracy and Citizenship in the Office of Education in Incheon planned to promote the use of Circle meetings to local schools by sharing a film that records a Circle facilitated by the students. In spite of the advantages of efficiency, the effectiveness of this top-down approach is questionable. It can bring emotional resistance from teachers and students adopting the mechanism without fully understanding the philosophy of RJ practices and the unique needs of local members.

CONCLUSION

Equity is one of the essences of RJ practices in schools (Vaandering 2013). Although a school reinforces oppression including patriarchy, hierarchy, ageism, and ableism, a school is one of the critical institutions youth can learn fundamental values and skills to make society more equitable and just. This chapter shows RJ practices offer schools the philosophy and skills to liberate students by empowering their voices.

This research demonstrates how RJ practices helped to create a respectful and equitable culture of a school by empowering student voices. Circle Processes across the community of the school enabled all student voices to be heard and contributed to embodying core spirits of RJ practices including respect, belonging, responsibility and equity. Furthermore, fostering student voice initiatives brought a reciprocal relationship between teachers and students empowering youth as one of the important agents to make a change in schools.

The findings from this study have significant implications to the future study of RJ practices and development of youth empowerment in general. First, this study examined the idea that RJ could offer a framework of valuing student voices. In practice, Circle Processes are widely used in RJ practices worldwide. Circle Process not only could cultivate a safe and respectful place, it also induce an equitable space, which is critical to the success of RJ. Second, RJ practices exemplifies how an institutional mechanism can foster student voice. Specifically, homeroom-centered student council and guidance from advisors, student activity liaisons and RJ consultants can be useful for schools to strengthen the student body following their own philosophy of RJ. Third, this study demonstrates the possibility of creating a reciprocal relationship between student and teachers in a school setting by valuing student voices culturally and systemically.

While the scope of this study is significant, there are limitations. First, since the data of interviews were coming from the advisors of the student body, it is important to further study the issue with different types of stakeholders in the educational community. We need to understand perspectives from those who are not advisors. Although this study has shown that restorative practices in the Non-Western world are also prevalent, the sample is unique to the educational context of South Korea. While there were common oppressions youth face in the Western and Non-western world, types of oppression are varied according to contexts. As noted earlier, the effects of ageism based on traditional Confucianism in South Korean culture as well as the focus on college preparatory curriculum in South Korea should be considered. Therefore, further study on how cultural and systemic factors affect RJ practices in terms of youth empowerment is needed.
APPENDIX A: INTERVIEW PROTOCOL

What were the motivations of the school to implement restorative practices? What were the most important things the school regarded at the beginning of the practice and how have they been changed?

What changes have you experienced in the school since you started the restorative practices?

When were the times you realized what the school has emphasized in implementing restorative practices was really important?

How have the restorative practices in the school developed? What have been needed for the development?

What are driving forces to keep the restorative practices in the school? How have the forces evolved or disappeared?

What and how have the RJ practices of the school affected outside of the communities?

What are your prospects for the RJ practices in the school?
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INTRODUCTION

In ancient India, criminal justice system necessarily included victim oriented approaches for restoring justice. Penology for wrongs done by the offender were judged on the basis of victim's loss. Here, the concept of “victim” did not generally overlap with the concept of State as a “victim”, which is rather a western concept. As per the ancient Indian system, the wrong doer would need to repair the harm by personally assisting the victim to come out of the loss or damage suffered by the latter; this may include paying for the family maintenance of the murdered victim, repairing the damaged property or returning the stolen cattle etc.1 The penal laws for regulating crimes in ancient India encrypted in ancient scripts like the Manusmriti, Arthashastra etc would reflect that they were therapeutic in nature, which would heal the wounds for the victims and offer ways for reforming the wrong doer.2 But this ancient system did not survive till modern age. Repeated attacks by Islamic invaders in the middle ages and then the colonial British rule over India till 1947 influenced the indigenous criminal justice system. The modern criminal justice system in India would reflect a huge influence of British laws which has given much importance to State as the primary victim and reduced the stand of the original victim to a mere “witness”, who should be compensated in cash and in kind which includes punishments to the wrong doer by way of imprisonment. But in several criminal cases including cases of accidental death caused by motor vehicle accidents, murders, interpersonal victimisations, women and child abuse cases, this modern approach may not always be fruitful especially from the victim’s right perspectives. Given the fact that Indian society is different than the western societies, the modern criminal justice system (with western influence) could not always create best results. Victims, especially women, children (represented by their parents) and those from socio-economically backward classes prefer not to report the crimes apprehending social shaming, victim blaming and prolonged judicial methods. The answer to this could be going back to roots shredding unwanted elements which may have reduced the positive effects of the traditional criminal justice system. This may be achieved when stakeholders of criminal justice

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2 Ibid
system including the judges, lawyers, other court officers, and the police may adopt Restorative Justice (RJ) and Therapeutic Jurisprudence (TJ) approaches for restoring justice. The stakeholders must see the laws in the light of TJ, which says that law is the therapeutic agent for healing the wound (Winnick & Wexler, 1996) before applying the same for the benefit of the victim as well as the offender. Otherwise, the main aims of RJ, i.e. healing the wounds of the victims may not be achieved. However, while RJ may have its roots in India, not many law schools have introduced RJ as a separate subject in the legal education curriculum. This is taught mainly as parts of Criminology & Penology and Victimology subjects by law schools. On the other hand, TJ is not yet introduced in the law school curriculum in India. This chapter emphasises on use of TJ and RJ principles for regulating road traffic violations by youth and children in India. While both the subjects do not have prominence as other procedural laws, substantive laws and other related broader criminal justice science subjects like Penology, criminology and victimology in the undergraduate courses for Indian legal education, this chapter suggests how and why they should be used in the Indian legal education curriculum in the background of road traffic and motor vehicle offences.

Motor vehicle accidents by youth within the age limit of 17 to 35 in major cities across India have steeply risen over the years. The following three examples may show the different patterns of motor vehicle accidents in India:

Example no.1: in April 2016, a teenager around the age of 18 (17 years 11 months 26 days) had hit a 32-year-old man in Delhi while driving his father’s Mercedes car in a rash and negligent manner and fled away without assisting the victim. The impact of the hit was so grave that the victim was flung over for several meters and thrown to around 15 meters away from the spot where he was hit by the car. The case was later transferred from the Juvenile Justice Board to Sessions court for trial of the accused boy since this was considered as a heinous crime under the Juvenile Justice (care and Protection of child) Amendment Act, 2016 and also considering the fact that he would turn 18 within 4 days of the commission of the offense.

Example no.2: A 22-year-old law student had reportedly committed accident by rash and negligent driving by hitting and crashing 10 auto rickshaws and seriously injured two auto drivers on September 20, 2016, in Chennai. The accused was left unhurt due to the internal mechanism of driver-safety of the car. It was found that the accused was not only speeding, he was also under the influence of alcohol.

Example no.3: On June 13, 2016, at Pune, Maharastra, a software engineer woman was killed due to racing of two cars. As the reports suggest, the lead author being a member of International society of Therapeutic Jurisprudence and global advisory committee member of the said society, for the first time in India had introduced TJ to the 4th and 5th year BBA-LLB students Unitedworld School of law as parts of subjects including Public Interest lawering and Victimology. No other law schools had introduced TJ to the students of 5 year integrated law curriculum at the time when this chapter was submitted.

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4 S.2 (33) of the JJ Act, 2015 states that “heinous offences” includes the offences for which the minimum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more”.


she along with her few friends decided to travel to Lonavala after having a party on a Friday night. While driving on the Katra-Dehu road, the drivers of the two cars in which the victim and her friends were travelling decided to compete with each other. Resultant, both cars brushed with each other, lost control and the deceased’s car dashed into a nearby restaurant which instantly killed the deceased.

The above three examples present three different sorts of offences as has been recognised by the Motor Vehicles Act, 1988 (amended in 1994); these are (i) rash and negligent driving (S.184), (ii) driving under the influence of alcohol (S.185) (iii) and racing and trial of speed (S.189). It may be noted that the all the offences as shown above, may also be regulated under S.279 of the Indian Penal Code, which states that “Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.” Further, the Supreme Court had time and again insisted on applying S.304A IPC (punishment for causing death by negligence) especially where the accused driver had not only committed rash and negligent driving, but also had run over the victim, who may have died and negligently left the spot without providing any assistance to the victim to save his own life from the clutches of the laws.7This is especially because of the gravity of the offence which has been recognized not only as a motor vehicle offence but also as a criminal offence. However, motor vehicles offences cannot be limited to only rash and negligent driving. Other offences which may endanger the lives of other individuals may include minor offences like dangerous lane cutting (addressed and punished under S.177 & 184,MV.Act), obstruction of free flow of traffic (S.201 MV Act), using motor vehicles in unsafe conditions, which may prove hazardous for others (S.190 MV Act), driving vehicles exceeding permissible weight (S.194 MV Act) etc. It must also be noted that while these offences may not only endanger the lives of others using roadways, the motor vehicles Act being a beneficial and welfare legislation,8 it has also made several provisions for codifying the duties of the drivers to save his own life as well as that of others. These may include using of seat belt, helmet (S.177 & 129 M.V.Act), limiting to only one passenger for pillion rider in case of two wheelers (S.128 M.V.Act), not to exceed passengers other than that as has been categorised by the vehicle manufacturer and also the Motor Vehicles Act (Ss.113 7194 M.V.Act), controlling of noise pollution (S.190(2) M.V. Act) etc. Breaching of these duties may also result in accidents and public health hazard including the health hazard for the driver himself.

Recent researches have shown that motor vehicle accidents may result from three major factors, namely human errors, vehicle defects and infrastructure including problematic roadways, signage, weather etc (JP research India Pvt. Ltd, 2015). All these may essentially include gross violation of Motor Vehicles Act,1988 (amended in 1994) which is the primary law for regulating motor vehicles including certifying fitness of the vehicles, license of the drivers, rules regarding proper driving of the vehicles on the roads, violation of such rules, road safety and accident victim assistance. Several studies have been conducted to gauge the road accident causes, impact and attitude towards using road safety measures in different cities in India; Bhagiyah,M & Shringesh (2014) had conducted study of traffic analysis and road accidents in Hyderabad using GIS and concluded that GIS system may be used to know the patterns of accident and causes for the same. They also concluded that stringent surveillance of road traffic system may help in planning for prevention of road traffic accidents. Chakraborty,N, Gupta.K.& Bhatnagar.A(2013) had conducted a survey on awareness of traffic safety among drivers in Delhi. This study showed that while drivers in Delhi were aware of rules relating seat belts, using mobile phones while driving etc, they were not much aware of safe stopping of the vehicles, road markings etc, which according to these researchers may have caused more accidents. JP research India Pvt Ltd had also done a study on Ahmedabad and Gandhinagar road accidents in 2015-16 analyzing 211 accidents in Gandhinagar and Ahmedabad and concluded that while human factors (errring drivers) may cause maximum accidents, vehicle structure, and road traffic infrastructure should also be considered for a growth rate of accidents in Ahmedabad and Gandhinagar.

Therapeutic Jurisprudence (TJ) seeks to use law and legal enforcement agency as healing agents by assessing therapeutic and anti-therapeutic consequences of law and legal practices (Winnick & Wexler, 1996). Restorative justice on the other hand is “a process to involve, to the extent possible, those who have a stake in a specific offense to collectively identify and address harms, needs and obligations in order to heal and put things as right as possible.”(Zehr & Gohar,2003). The lead author in her earlier research work had observed that “Restorative justice emphasises upon repairing the harm through mediation involving the victim, offender and the legal actors, including judges, lawyers, and mediators to solve the problem amicably” (Halder, 2015, pp 105). Restorative justice not only sees offender rehabilitation, but also ensures how such rehabilitation may be beneficial for the victim. Restorative justice and Therapeutic Jurisprudence together therefore can produce an excellent result by using the law and law enforcement agency for managing the offender & victim rehabilitation, restoration of justice (King, 2009). However, these authors argue that law schools must consider teaching Therapeutic Jurisprudential approach of the laws first especially in regard to criminal and tort laws. This will enable the students, especially undergraduate to understand and use Restorative Justice for practical purposes. This article argues that while all the above-mentioned studies have emphasized on causes of road traffic accidents, rarely any studies have been conducted to analyze the effectiveness of Motor Vehicles Act, 1988 in controlling the road traffic accidents in India from a Therapeutic Jurisprudential (TJ) perspective along with Restorative

7 K.Perumal v. State, 1998 4 Crimes 382
8 Ningamma vs. united India insurance company Ltd (2009) 13 SCC 710
Justice (RJ) approaches. Further, there are not much research on engaging the legal aid centres run by law schools in India for spreading awareness about road traffic regulations, victim compensation schemes, right to free legal aid for the victims of accidents etc. This chapter aims to fulfill this lacuna. This chapter argues that while MV Act recognises offences which may be detrimental to public safety and public health, being a civil law in nature, the penological approach of this law towards regulating the traffic violation offences is anti-therapeutic from various aspects; it further argues that such anti-therapeutic penological approach motivates youth to widely violate traffic rules for minor as well as major offences. This chapter, depending on the “Safe driving Centre” model by Winnick & Perez, examines the lacunas and anti-therapeutic approaches of the MV Act and suggests better implementing methods of the provisions of the MV Act as well as the 2015 Indian Supreme court circular for road safety education and counselling for faulty drivers as a two-step restorative justice method to be adopted by the police.

Part II lays down the background of this chapter. This part speaks about the offences recognized under the MV Act and how such offences may be detrimental to public health This discussion is necessary to understand how and why RJ and TJ may be used for regulating road traffic violations. Part III discusses about penological lacuna in this regard and the reasons for such lacuna. This part argues that the existing penological lacuna in dealing with road traffic violation regulations has arose mainly due to absence of teaching of RJ and TJ in the law schools. The absence of discussions on TJ and RJ principles in Tort law classes in the law curriculum has unfortunately made the very basic foundation of penology in regard to road traffic violation one sided: the foundation knowledge is therefore based only on the understanding of compensatory jurisprudence and preventive theory of punishment that may be achieved by way of imprisonment of the offender. It then explores whether the Safe Driving Centre model can be effectively implemented for the youth in India. Part IV discusses about Restorative justice practices and training and its possible impact on reducing road traffic violation by youth. This part includes discussions about broadening the law school curriculums to include the restorative justice programs, trainings etc especially for the benefit of the victims of motor vehicle accidents. The article ends with Part V, the conclusion and the public response towards the problem.

PART II: OFFENCES UNDER THE MOTOR VEHICLES ACT AND THE PENOLOGICAL LACUNA

Almost all law schools in India teach tort laws in the very first year of the law curriculum which includes Motor Vehicles Act (M.V. Act) 1988, the principle legislation in India for regulating issues related to motor vehicles and road traffic, which is a beneficial and welfare legislation. The present M.V. Act, 1988 amended M.V. Act 1939 with specific objectives including enacting stricter license rules, rules regarding pollution control, better road safety policies, better victim compensation scheme and expanding certain definitions of the terms and adding new definitions to broaden the scope of the law. Chapter 13 of this provision deals with the offences and penalties. While this chapter identifies and penalizes 25 offenses, the provision as a whole also identifies several other offences which can be prosecuted under this Act. These offences can be discussed under two main heads which are as follows:

(a) Offenses related to environmental pollution: The two important environmental pollutant factors (in relation to the motor vehicles) for environment pollution in India are excessive sound pollution due to the usage of horn devices or other unfit devices fitted with motor vehicles and air pollution due to the emission of auto fuel. The term “Environment pollutant” in this context has to necessarily be interpreted in the meaning of Environment (Protection) Act, 1986, which in S.2(b) defines the term as “any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment.” It has been observed by several researchers that noise from the vehicular transports may contribute to the highest levels of noise pollution ((Doshi, Halani, Jasolia, Jain & Sawant(2015); Vijay, Sharma, Chakrabarty & Gupta(2015), which may adversely affect not only the environment but also public health. According to Stansfeld & Matheson(2003), noise falling under the category of “unwanted sound” can be considered as an “environmental stressor” and can cause numerous health problems for adults and children. Considering this factor, the Indian law makers in Noise pollution (regulation and control) Rules, 2000 demarcated specific areas as silence zones by defining it as “an area comprising not less than 100 metres around hospitals, educational institutions, courts, religious places or any other area which is declared as such by the competent authority.” However, it has also been observed by several researchers that presently in spite of the existing regulations such as S.190(2) of the Motor Vehicles Act, 1988, transport vehicular noise pollution has steeply increased (Doshi, Halani, Jasolia, Jain & Sawant(2015); Vijay, Sharma, Chakrabarty & Gupta(2015)

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9 This is mainly because the aim of the legislation, which covers not only better transport policies and effective management of the same but also to ensure better compensation schemes for the accident victims. See for more more Ningamma vs. United India Insurance co. Ltd., (2009) 13 SCC710(2010) 1 SCC (Cri)1213 & M.K.Kunhimohammed vs. F.A. Ahmedkutty (1987) 4 SCC 284: AIR1987 SC 2158
10 (4 of 1939)
11 See Note 3 of Schedule in Noise pollution (regulation and control) Rules, 2000
Sharma, Chakrabarty & Gupta (2015). It must also be noted that one of the key reasons for air pollution is the emission from the diesel and petrol run passenger motor vehicles, besides industrial emissions and power production sources (WHO guidelines, 2005). The emission of hazardous gasses including elements like PM 2.5 and PM 10 may cause life-risking health problems including asthma and choking feeling, burning sensation in the eyes etc in children as well as adults. Considering from this aspect of public health, the Indian government adopted National Auto Fuel Policy, 2003 to regulate issues including checking on levels of emissions from auto fuel as per the Bharat Stage emission standards, air pollution borne by auto fuel, tracking and managing public health related problems in this regard etc. This policy, which heavily depended upon the Central Motor Vehicles Rules, 1989, was further revised in 2014 to bring in a road map for regulating vehicular emission norms until 2025. It may be pertinent to note, that that prior to the adoption of the above policy guidelines, the Motor Vehicles Act, 1988 and the Central Motor Vehicles Rules 1989 already recognized the excessive auto fuel emission of motor vehicles. The auto fuel policy further restricted the emission level for the better implementation of the Motor Vehicle Act and the central motor vehicle rules, 1989. Further, environmental pollution due to vehicles may also occur due to hazardous contents carried in it violating the standard norms. Hazardous contents have been defined by Central Motor Vehicle Rules, 1989 as the “goods of dangerous or hazardous nature to human life specified in Tables I, II, and III to rule 137” and it includes several types of chemicals and gasses which may prove dangerous if leaked accidentally or negligently. It must be noted all the above mentioned factors are extremely detrimental to public health and S.190 of the Motor Vehicles Act penalizes human actions which may cause such environmental crimes by way of suing the owners of the motor vehicles. As may be seen from the above, in the case of air and sound pollution, the punishment may be minimum pecuniary punishment under the Motor Vehicles Act. But contrarily, in cases of negligent carrying of hazardous goods or contents defying the general norms of safety, the provision prescribes jail terms along with pecuniary fines, which may further be avoided depending upon the particular situations and discretion of the officers concerned.

(b) Offenses related to driving and safety: the concept of Road traffic safety has been almost always synonymously used with the concept of safe driving in India. The motor vehicles act recognizes several types of offenses in this regard including rash and negligent driving, drunken driving, hit and run, etc for which the said law provides pecuniary punishments as well as jail terms.

The ultimate aim of the penal provisions is to create policies which will ensure that drivers are not distracted while driving motor vehicles and thereby ensure the safety of the driver as well as of the passengers in the motor vehicle.

12 As per the definition provided in the webpage of the US Environment Protection agency (EPA), “PM stands for particulate matter (also called particle pollution): the term for a mixture of solid particles and liquid droplets found in the air. Some particles, such as dust, dirt, soot, or smoke, are large or dark enough to be seen with the naked eye. Others are so small they can only be detected using an electron microscope.” See https://www.epa.gov/pm-pollution/particulate-matter-pm-basics#PM. Accessed on 1-12-2016


14 The online version of the provision can be accessed @ http://www.thinklegal.co.in/viewexternalfile20092010/rulec198918072012.pdf

15 In this context, it becomes necessary to discuss abut S.190(2 & 3) of the Motor Vehicles Act, which regulates the issue under the broad title “using vehicle in unsafe condition”; S.190(2) reads as follows: “Any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed in relation to road safety, control of noise and air-pollution, shall be punishable for the first offence with a fine of one thousand rupees and for any second or subsequent offence with a fine of two thousand rupees”. As may be seen from the provision above mentioned, the legislation considers vehicular noise and air pollution as a tortuous liability of the owner in relation to the maintenance of the vehicle in a safe condition for the cause of public health. The provision awards maximum sentence of one thousand rupees (around $15) for the first offense and Rs. 2000 (around $30) for the second offense. However, S.190(3) addresses offences relating to carrying of hazardous good and states that “any person who drives or causes or allows to be driven, in any public place a motor vehicle which violates the provisions of this Act or the rules made there under relating to the carriage of goods which are of dangerous or hazardous nature to human life, shall be punishable for the first offence which may extend to three thousand rupees, or with imprisonment for a term which may extend to one year, or with both, and for any second or subsequent offence with fine which may extend to five thousand rupees, or with imprisonment for a term which may extend to three years, or with both. “

16 Rash and negligent driving may be caused due to several human errors as well as mechanical faults; these may include over speeding, dangerous lane cutting, jumping of road traffic signals etc. S.112 of the Motors Vehicles Act prohibits speed limit violation, but does not pronounce any punishments. S.183 of the Motor Vehicles Act pronounces pecuniary punishment for over speeding which is Rs. 400/- in the first instance (around $6) and Rs. 1,000/- (around $15) in the second instance. Further, the provision also provides pecuniary punishment of Rs. 300 (around $4) and Rs. 600 (around $9) for offenders who may have abetted drivers under their control to over speed. It must be noted that these provisions do not limit the punishment only to four wheelers. The penal provisions are applicable for any motor vehicles including two wheelersThe motor vehicles act however has provided several provisions to ensure safety of the drivers; these include wearing head gears (S.129), security for the drivers related to seats (S.128) etc.

17 For example, consider the last paragraph of S.116 of the motor vehicles act which states that “Clause 116 confers power on the State Government and any authority authorized by the State Government to erect traffic signs on public road for the information of road users. It also empowers certain officers to remove from the public road any sign which is likely to distract the attention of a driver.”
The scope of this law has been made wide enough to include rash and negligent driving and drunken driving as penal offenses even though the Act as a whole is of civil law nature. It may further be noted that this Act does not prescribe any heavy fine or jail term for under age driving.

But it has been noticed by these researchers that in most cases of rash and negligent driving or drunken driving coupled with rash and negligent driving, or driving by minors specifically in rash and negligent manner or in a state of unfitness and in a drunken condition, the police tend to book the cases under the provisions of Indian Penal Code (especially S.279, which speaks about rash and negligent driving and 337, which speaks about causing hurt by act endangering life or personal safety of others) as well as under the motor vehicles act. It may further be noted that if the dangerous manner of driving causes life to risk accidents or death of any individual, the motor vehicles act provide punishment with a jail term for a maximum period of 3 months and a pecuniary fine of s. 500 or both, and in the case of second conviction, with a jail term for a period of six months or with a fine of Rs. 1000 or both. In such cases, Indian penal code provides more stringent punishment including punishment for culpable homicide (s. 304) or murder (S.302) or for causing voluntarily causing grievous hurt (S.323). This practice of clubbing up the two laws can be noticed in many recent judgments including in the case of Salman Salim Khan vs The State of Maharashtra,(2015) and again in the Delhi hit and run case of 2016; in the earlier case, the accused Salman Khan, a famous Bollywood actor had been charged with drunken driving, hit and run and rash driving under various provisions including Section 304(A), 279, 337, 185 of the Motor Vehicles Act 1988. He was later acquitted by the Bombay high court for lack of proper evidence. In the later case, a juvenile aged about 17 years of age was convicted of over speeding and hit and run case of a 32-year-old pedestrian in Delhi; considering the heinous nature of the offence and his age, the juvenile justice board decided to transfer his case to a sessions court where he would be tried as an adult for the offence.

Apart from above provisions, Motor Vehicles Act also has a principle of Contributory negligence and no fault liability when it comes to tribunal to decide the quantum of compensation. Accountable negligence consists of the neglect of use of ordinary care or skill by the offender, which, if not neglected, may have averted injury to the person or property of the affected person. This may give rise of liability of the offender towards the victim. But the question of contributory negligence arises when both the offender and the victim are negligent during a course of action which may result in injury to the person or property of the victim. On the other hand, the concept of “no fault liability” raises liability of the owner of the vehicle in case the faulty driving of the vehicle by a third person has caused injury t the person or property of the victim. In both the cases, the victim may have to suffer to get compensation since the burden often lies on him. Realising this lacunae, the Indian Parliament amended the Motor Vehicles Act,1988 and inserted Section 163-A to it in its 1994 amended version. This provision provides for compensation on a structured-formula basis.

### PART III: PENOLOGICAL LACUNA AND POSSIBLE REASONS FOR THE SAME

Considering the growth of the accident-related offenses caused due to traffic violations by motor drivers, the Indian Supreme Court had suggested that besides stringent penal laws, essential need also exists for proper counseling for first-time offenders. However, these researchers observe that the penology of the road traffic rule violation in India is very lenient. The list of the offenses and the punishment thereof can be found in several government traffic websites. The MV Act follows three major types of sanction policies: (i) fines, (ii) license actions and (iii) jail sentences. Fines are the essential part of penal sanction of almost all the offenses. But it may be understood that the minimapenecipucular

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18 As such S. 184 penalizes dangerous driving which includes over speeding or driving in a manner which is dangerous to the public, including rash and negligent driving with a jail term for a period of one year or a pecuniary sentence of Rs. 1000 ($15) or with both in the first instance and in the case of second conviction, with a jail term for a period of two years or with a pecuniary sentence of Rs. 2000($30) or with both. S.185 further penalizes drunken driving or driving under the influence of drugs with a pecuniary fine of Rs. 2000($30) or with a jail term for a maximum period of six months or both, and in the case of second conviction, with a pecuniary fine of Rs. 3000 (around $44) or with a jail term for a maximum period of two years or with both.

19 While S.4 of the Act limits the minimum age for riving gearless motor cycles to 16, it also says that minimum age for driving any motor vehicle should be 18 and heavy motor vehicles can be driven only by persons who have attained 21 years of age.S.181 of the Act prescribes a minimal punishment for a jail term for a maximum 3 months time and a fine of Rs. 500 (around $8).

20 Salman Salim Khan Versus. The State of Maharashtra, (Through: Bandra Police Station) CRIMINAL APPEAL No. 572 of 2015, In the High court of Bombay


amounts may not create much impact on the youth or vehicle owners/drivers who may be habituated to over speed-
ing, rash driving etc. Several researchers, who have conducted studies on road traffic violation in India, had emphasized
on fatal accidents; the researchers suggested improvement of roads and proper execution of laws as well as effective
awareness campaigns. However, the penological management of other minor offenses in India has remained un-
der-researched. As may be seen, the violators of traffic rules related to auto fuel emission or over honking or carrying
of hazardous materials may be fined as according to the schedule above, but an effect of such pecuniary punishment
may not be impressive. This is evident from several feedbacks from the police, environment activists, and mental
health experts.24 Similarly, while there exist penal provisions for violating safety norms including not wearing seat belts,
helmets, defective fittings of the motor vehicle mechanism or not carrying valid papers of the motor vehicles etc, or
proper usage of the vehicle as per the Act, either the violators are acquitted after paying of the fine and providing a
receipt for the pecuniary amount, or they may be acquitted by the courts because of lack of evidence or because of the
bailable nature of the violation.25 These researchers agreeing with the observation of Funk(2004) feel that pecuniary
punishments alone may not be effective form of punishment since fines may not attract social stigma as it may do
for jail term, or they may neither attract the fear of driving without valid license as it may happen when licenses are
suspected by the police or the designated authorities from Regional Transport departments or by the courts. Fines
are more a form of penal sanction by administrative process rather than judicial process (Nichols & Ross, 1988) as the
defaulters may be let go without being produced before a magistrate. But even then, penal sanctions by way of fines
for offenses under Motor Vehicles act may play an important role in for victim compensation when reading in the light
of S.357 Cr.P.C.26

License action may include an endorsement for a temporary disqualification on the license by the licensing author-
ity. S.19 of the Motor Vehicles Act lists eight occasions when the licensing authority can endorse or
disqualify the holder from holding license temporarily; these are: when a person is (i) a habitual offender or a habitual
drunkard, (ii) habitual drug-addict, (iii) has used or is using a motor vehicle for commission of cognizable offence; (iv)
has been proved to be driving motor vehicles dangerously; (v) has obtained driving license by fraud; (vi) has com-
mitted any act which may cause nuisance or danger to public, (v) has failed to submit the license which may have
been required for penal actions against the faulty driver or had failed to qualify the test for re-assignment of driving
license; (vi) in case of a minor who has ceased to be under the care of his guardian or care protection, who had given
written consent for the obtainment of learner’s license or driver’s license of the earlier. Further, a license holder may
also be suspended temporarily from holding a valid license by the courts if the person concerned had been convicted
of any offense under the motor vehicles act or for any other offense recognized by the laws of the land for which the
offender may have used a motor vehicle.27 However, S.20 of the motor vehicles act also specifies the minimum period
of disqualification of the holding of the license in cases where the offender is convicted for not obeying a police officer
to stop in cases of accidents (S.132), or for not stopping for helping the victims of accident including those who have
been grievously injured or died in the accident wherein the motor vehicle may have been involved, or may have ab-

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25 For example, consider the case of Down By The Hon'Ble Supreme Court vs. The Union Of India In Writ on 15 April 2014, In the Court of Sh. Balwinder Singh, Metropolitan Magistrate (Traffic), South District, Saket Court, New Delhi. URL: https://indiankanoon.org/doc/126677406/. Accessed on 13.12.2016, where the accused who was charged with offenses for not carrying proper permit (S.60 of the Motor Vehicles Act) and for not wearing a seat belt, was acquitted due to lack of proper evidence.
26 S.357 Cr.P.C speaks about Order to pay compensation and states as follows:
(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court
may, when passing judgment, order the whole or any part of the fine recovered to be applied-
(a) in defraying the expenses properly incurred in the prosecution;
(b) in the payment to any person of compensation for any loss or injury caused by the offense, when compensation is, in the opinion
of the Court, recoverable by such person in a Civil Court;
(c) when any person is convicted of any offense for having caused the death of another person or of having abetted the com-
mision of such an offense, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855 (13 of 1855 ),
ettled to recover damages from the person sentenced for the loss resulting to them from such death;
(d) when any person is convicted of any offense which includes theft, criminal misappropriation, criminal breach of trust, or
cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing
or having reason to believe the same to be stolen, in compensating any bona fide purchaser of such property for the loss of the
same if such property is restored to the possession of the person entitled thereto.
(2) If the fine imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for pre-
senting the appeal has elapsed, or, if an appeal is presented, before the decision of the appeal.
(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the
accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any
loss or injury by reason of the act for which the accused person has been so sentenced.
(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising
its powers of revision.
(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account
any sum paid or recovered as compensation under this section.
27 See S.20 of the Motor Vehicles Act, which speaks about the power of the courts to disqualify.
sconded without reporting the accident or death or grievous hurt that have been caused due to the accident. The maximum period for disqualification from holding the license may be five years under this Section. S.21 of the motor vehicles act further clarifies that in the case of causing of death or grievous hurt by using motor vehicles; license may stand automatically suspended right from the time of the commission of the offense till six months or till when he may be acquitted by the court, whichever may be earlier. These researchers agree with the observation of Funk (2004) that suspension of driving license may be more effective than fines since the faulty drivers may not be able to drive motor vehicles with any valid license and they may be under fear of further punishment if caught driving without any valid license and within the time period of disqualification of holding of the validity of the license may cease to be effective with the pronouncement of the disqualification orders by the courts.

The Motor Vehicles Act prescribes jail term in Ss. 179 (disobedience of orders, obstruction and refusal to provide information to the police or licensing, 180 (allowing unauthorised persons to drive the motor vehicles), 181 (driving vehicles in contravention of Ss.3 & 4), 182 (driving vehicles in spite of being disqualified from holding license or suspension of license) 184(driving dangerously) 185(drunken driving), 187 (punishment for accident-related offences) , 189(racing and trials of speed), 190 (causing accident resulting in bodily injury or harm to property by using defective vehicles), 192 (using vehicles without registration), 192A(using vehicles without permit) , 196 (driving uninsured vehicle), 197(taking vehicle without authority). The present Act also imposes a duty on the driver who may have caused the accident to offer first aid to the victim and report about the accident to the nearest available police post (S.134). The maximum jail term under this act extends to three years for causing the accident resulting in bodily injury or harm to property by using defective vehicles under S.190. But awarding sentences for imprisonment for motor vehicles related offenses under the MV Act act has remained limited to accident cases which may have resulted in grave bodily injury or death or drunken driving. The higher courts in numbers of occasion have taken note of this and emphasized on no leniency for the jail term in cases of death or grievous harm. This is especially so because courts have opined that drivers must be under fear of stricter punishments for causing accidents resulting in death or grievous harm. But it must also be noted that punishment in the form of imprisonment may be considered as a therapeutic way of solving the issue only when the imprisonment term is coupled with sentences which may have correctional objectives. Keeping this in mind, the Supreme court in the case of State Tr. P.S. Lodhi Colony New Delhi V.Sanjeev Nanda [2012] emphasized upon two-phased punishment including payment of fines which may be used for the compensation -fund for hit and run cases where faulty drives cannot be traced, and compulsory social service for two years, the nature of which may be decided by the ministry of social justice and empowerment. The offender may be sentenced to simple imprisonment for one year in the case of failing to execute the sentence for community services for two years. The courts felt that such sort punishment may be appropriate for restoring justice for the victim and the society as a whole. But at the same time, the courts have also noted that such sentences for community work are not a punishment to the true sense. It is a correctional approach by the courts to make the offending driver “pay back to the society what he owes”.

These researchers argue that the penological lacuna mentioned above may have resulted due to less importance given to RJ & TJ in the law school curriculum. As mentioned in the introduction, the legal education curriculum in India went through a sea change in late 1980’s to 1990’s when National Law Schools were established. Professor Madhava Menon, the founder- director of National Law school of India University, Bangalore (NLSIU), which is the first National Law School in India (established in 1986) emphasised more on clinical legal education. NLSIU started its free legal aid cell and the students were made to attend this on a compulsory basis. But this does not mean that RJ was introduced to the students as a separate subjects either as a clinical law paper or as a credit based non-clinical paper. RJ was still very much part of subjects like criminology and victimology which were generally taught in the final semesters of the traditional as well as national law schools. As such, students learnt about tort laws including MV Act without knowing about the necessity of victim oriented approach when it comes to penology of the above mentioned law. Police and judges (who may not have studied RJ as law students during their undergraduate law courses) were neither sensitised about RJ while dealing with such victims or their families. Neither the Health care sectors were sensitised in this regard : victims of road traffic accidents were generally refused by the private hospitals fearing prolonged police actions for medical negligence in case the victim would die in the hospitals. Eye witnesses would refuse to help the victim or call the police fearing secondary victimisation in the hands of the police and courts. This apathy made many victims to die on the spot without any medical assistance; the police were also handicapped in the prosecution stage due to absence of proper evidences regarding the actual wing doer. The survivors or the victims’ families would also undergo secondary victimisation in the courts for claiming compensation as the wealthy wrong doers and insurance companies would not be eager to help them.

28 Ibid
29 Often Such jail terms under the motor vehicles act are clubbed up with provisions from Indian Penal Code meant for punishment for causing culpable homicide (S.299) or for causing death by rash and negligent act (S.304A) or causing murder (S.304).
30 For example, see State of Punjab vs.Saurabh Bakshi, CRIMINAL APPEAL NO.520 OF 2015 [Arising out of S.L.P. (Crl.) No. 5825 of 2014]
32 Ibid
33 These are autonomous law schools which are well known for their reformed pedagogy in legal education.
hire efficient defence lawyers who would try to reduce the financial burden of their clients to minimum. Noticeably neither the defence lawyer or the prosecution lawyer would be sensitised in RJ properly (because neither they may be exposed to the subject of RJ in their law curriculums) and resultant, the court system as a whole would not be able to provide any assistance to the victim to heal the wound.

However this system started changing with the establishment of several other national law schools in other parts of India during late 1990’s; all of them started imparting clinical legal education by way of introducing the students to Alternative Dispute Resolution methods, training them in drafting and pleading etc. Legal aid cells were proved highly beneficial for the law teachers and students to learn law in a more practical way. This method was also taken up by other government aided law colleges and private law colleges. As per the present system of legal education, the two subjects that include RJ are Criminology (which is taught mainly from the perspective of theories of punishment and rehabilitation of offenders) and Victimology & penology, that are generally taught in the final years of the law schools. However, as the students are exposed to Legal Aid Cells and Lok Adalats they are also exposed to the plight of the victims of road traffic offences including motor vehicle accident cases. Plight of these victims were also noticed by National Legal Services Authority (NALSA) which encouraged spreading awareness through the legal aid cells of the law schools and colleges under the aegis of district and state legal services authorities about free legal services available to the beneficiaries including women and children, basic legal awareness about safe driving rules, fundamental rights of all, right to health and medical assistance in cases of accident cases, duties of general citizens to inform the police about any crime victimisation including motor accident cases, sensitisation about rights of women and children etc. These changes in the Indian legal education and court system encouraged more academic researches on use of RJ for cases like domestic violence, child sexual abuse etc. But still, the impact of RJ was not much researched from the perspective of road traffic violation and motor accident victimisation cases. However, this change also saw the emergence of law student volunteers (including junior law students) who started showing interest in learning about RJ mainly for understanding human right violations due to nonchalant attitude of police and criminal justice machinery towards the victims including victims of accident cases. However, due to the framing of legal education curriculum, the junior students are still not exposed to core RJ principles as parts of Criminology, Victimology and penology. They still have to depend upon the law teachers and RJ practitioners who would hold non-academic sessions to introduce the students to RJ principles from the perspectives of prison administration, victim justice etc. Unfortunately TJ has not yet got this exposure to the students except in one or two law schools.

**HOW THERAPEUTIC JURISPRUDENTIAL APPROACH FROM THE RESTORATIVE JUSTICE PERSPECTIVES MAY HELP?**

Reviewing the above sentencing policy of the Indian motor vehicles act, it may be seen that except the cases where death or grievous bodily harm had been caused due to the accident, the punishment is civil in nature and minimal. In cases of financially affluent faulty drivers, imposing of fines may not have a bigger impact. Further, the license action may not be effective in cases where the motor vehicle may have been driven by the hired drivers. The owner of the vehicle may always opt for hiring another driver. This may further have a detrimental effect on the hired driver who may belong to financially backward classes and who may have driven dangerously or committed any mistake related to possession of license due to instructions from the vehicle owners; we argue that such layoff may affect the hired drivers. As such, neither of these forms of punishment may attract social stigma as it may happen for the jail term. Punishments with imprisonment cloak the accused with a negative identity which may alienate the accused as well as his family from the main stream society in India. But these researchers argue that neither of these three forms of punishments may affect the faulty drivers or the motor vehicle owners who may have abetted the hired drivers to commit the mistake unless such punishment has the therapeutic jurisprudential philosophy. seeing from this perspective, it may be understood that, these forms of punishments are anti-therapeutic. The Supreme Court guideline

34 The concept of Lok Adalat is explained in the website of the National legal services Authorities, which states that “Lok Adalat is one of the alternative dispute redressal mechanisms, it is a forum where disputes/cases pending in the court of law or at pre-litigation stage are settled/ compromised amicably. Lok Adalats have been given statutory status under the Legal Services Authorities Act, 1987. Under the said Act, the award (decision) made by the Lok Adalats is deemed to be a decree of a civil court and is final and binding on all parties and no appeal against such an award lies before any court of law. If the parties are not satisfied with the award of the Lok Adalat though there is no provision for an appeal against such an award, but they are free to initiate litigation by approaching the court of appropriate jurisdiction by filing a case by following the required procedure, in exercise of their right to litigate.” (for more understanding see https://nalsa.gov.in/lok-adalat accessed on 16-11-2018)

35 According to the information provided by the government website of NALSA, “In the year 1987, the Legal Services Authorities Act was enacted by the Parliament which came into force on 9th November, 1995 to establish a nationwide uniform network for providing free and competent legal services to the weaker sections of the society on the basis of equal opportunity. The National Legal Services Authority (NALSA) has been constituted under the Legal Services Authorities Act, 1987 to monitor and evaluate implementation of legal aid programmes and to lay down policies and principles for making legal services available under the Act.” (for more information see http://doi.gov.in/sites/default/files/BRIEF-NALSA_0_3.pdf Accessed on 21.02.2019)

36 Students of Unitedworld School of Law, Karnavati University, where the lead author works as the Professor of Law, had organised several awareness camps on rights of the motor vehicle accident victims. The second author is also a member of the legal aid cell and had actively participated in such campaigns. Similarly, other law colleges like Salgaonkar Law college in Goa, National Law school Delhi, Gujarat national law school etc are also encouraging their students to create restorative justice circles to help the victims of domestic abuse, child abuse, motor vehicle accident victims etc.

in State Tr. P.S. Lodhi Colony New Delhi v. Sanjeev Nanda (2012)\textsuperscript{37} can be said to be a therapeutic suggestion from the perspective of Therapeutic Jurisprudence because it emphasizes not only on public health aspect but also the restorative justice aspect. The set of guidelines provided in the above-mentioned case may be used to frame a policy for ensuring safe and responsible driving in the model of “Safe driving center model” proposed by Winnick & Perez(2009). The Safe driving centre model offers five-phased solution which includes (i) screening and assessment of the driver’s driving capability, (b) remedial/rehabilitation interventions for faulty drivers, (c) education and training for all drivers, (d) individual and family counselling, and (e) comprehensive community-based approach for prevention of the accidents and other wrong activities of the driver. These researchers propose for framing up a similar policy for India.

THE PROPOSED POLICY OF SAFE DRIVING CENTRE MODEL FOR INDIA (BASED ON SAFE DRIVING CENTRE MODEL OF WINNICK & PEREZ(2009):

Scope of the policy: Whereas Winnick & Perez(2009)’s model is restricted for elderly drivers, the scope of the policy proposed by these researchers is broader to include drivers of any age group who may have been accused of committing any offences or wrongs recognised by the Motor Vehicles Act as well as under the Indian Penal Code in relation to driving of the motor vehicles.

Screening and assessment: These researchers propose that similar to Winnick & Perez(2009)’s model, each faulty driver must be screened and assessed by the designated authorities from the Transport Department as well as the police and the authorized medical practitioners about their driving abilities.

Therapeutic Sentencing: The judiciary must provide remedial and rehabilitative sentences to the faulty drivers for each category of offenses. For environmental crimes, the sentencing may include fines, order for changing the faulty motor parts within a stipulated time (failing which a simple imprisonment with social services may be considered) and services to the protection and betterment of environment including planting of trees at the accused’s own cost, helping the concerned government departments in spreading awareness about environment pollution and protective measures including reducing the auto fuel emission or noise pollution etc. For rash and negligent driving including license offenses, the sentencing may include stricter rehabilitative punishments (which may make the offending driver aware of the of safe driving modes); such sentences must also direct the drivers to attend workshops on stress management while driving. For offenses related to drunken driving, the sentences must include a rehabilitation course within the imprisonment period. Further, the sentences for both rash and negligent driving and drunken driving must also include fines which must be exclusive of the compensation to be paid to the victims. The sentences must also include social services in the form of serving the orphanage or old age homes etc. Such sentences must adhere to the principles of restorative justice which Zehr had addressed as obligation.\textsuperscript{38}(Zehr & Gohar, 2003)

Counselling: Further, these researchers also propose that the faulty drivers must be made to join the counselling sessions which should be in accordance with restorative justice principles and see impact of their own wrong doing; they can be shown the photographs of the accident scene, the victims conditions etc and they must also be shown the real life situation of their victims or the dependants of the victim in case of death of the victim. This may be necessary to make them feel guilty of what they have done. However, such counselling sessions must be conducted under the monitoring of restorative justice practitioners and Therapeutic Justice practitioners; otherwise, such counselling sessions may become extremely traumatising when the offenders may wrongly assume such counselling sessions as sessions for showcasing wealth and Meherbani\textsuperscript{39} to the victim to close the case abruptly. Such counselling sessions must also ensure that the family members should not influence the victim to withdraw the charges due to any threat (which may be impliedly conveyed by the offender). Only when the offending drivers may understand the impact of their wrong doing, they may be psychologically barred from committing the same mistake again. This may also help them to enter into reasonable plea bargaining.

Comprehensive community-based preventive approach: These researchers observed that along with the government agencies, many NGOs and educational institutes in India may have taken an active part in awareness creation regarding dangerous driving and environmental crimes by drivers. These researchers further propose that the offending drivers must also be made to participate in such awareness campaigns whereby they may share why did they do the wrong, what had been the impact and what they could have done to prevent it.

\textsuperscript{37} STATE TR. P.S. LODHI COLONY NEW DELHI v.SANJEEV NANDA [2012] 12 S.C.R. 881

\textsuperscript{38} “Meherbani” is an Urdu word which is popularly used in India to mean obligation. The word may also be interpreted as obligation coupled with a sense of pride of wealth especially when wealthy and privileged offenders try to close the case by giving an amount of money for temporary relief to the victims so that the later may withdraw all sorts of criminal charges against the offender. This however, should not be considered as the same mechanism as that of out of court settlement as per principles of alternative dispute resolution of cases. In such cases the offenders (especially repeat offenders may use monetary power to “buy justice” for their selfish gain by shutting the victim with a much lesser amount than that which may have been awarded by the courts of law and ensuring that there would be no further punitive action by the criminal justice machinery.

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PART IV

RESTORATIVE JUSTICE PRACTICES AND TRAINING AND ITS POSSIBLE IMPACT ON REDUCING ROAD TRAFFIC VIOLATION BY YOUTH

The above mentioned proposed policy of Safe driving centre model for India (Based on Safe driving centre model of Winnick & Perez (2009) however needs a proper support of restorative justice training which may be developed by the stakeholders including the government. Restorative justice may have initiated in ancient civilizations including India (Raina & Handa, 2017), in the modern context, instances for restorative justice training for young people in India especially to control road traffic violation by youth is rare. While the Nyaya panchayat systems in India had been following the principles of Restorative Justice from ancient times (Thilagraj, 2017), it has been observed by researchers that post 1960’s several courts in India (including lower and higher judiciary) are increasingly adopting restorative justice mechanisms (which may have some indirect flavours of Therapeutic Jurisprudence) to resolve the conflicts especially due to broadened understanding of Directive Principles of State Policies and free legal aid (Halder & Jaishanker, 2017, Uma, 2017; Halder, forthcoming). Most noticeable of these restorative justice oriented conflict mechanism is organising the Lok Adalats (Jaamdar, 2017, pp 63) especially for resolving compensation claims for motor vehicle accident cases. Similarly, prisons (which are being used as rehabilitation centres as well) (Ramya Krishnan, 2017) and observation homes are also adopting restorative justice oriented rehabilitation and counselling sessions for adult and child offenders. These necessarily include sessions on moral values which may have socio-religious influences. However, as may be seen in the above mentioned researches, in India restorative justice principles are being used largely to settle the disputes which may involve monetary claims/compensations, property disputes, child custody disputes marriage disputes etc; these researchers have rarely come across any case where the restorative justice oriented conflict resolution method had approached forgiveness method especially for road traffic violation and motor vehicle accident cases. There are however two factors in it which must be considered here, which involves the question who is the victim?: in regular road traffic regulation violation cases where no life risking or life taking accident occurs, the State is generally considered as the ‘victim’ and the State impliedly forgives the wrongdoer by way of accepting the fine. But our concern is majorly for those victims who may have been physically harmed or those who have lost their family members. While restorative justice oriented approaches like the Lok Adalats may resolve the compensation issues faster, it may not take away the shock, feeling of pain and trauma from the victims. Therapeutic jurisprudence may influence the courts to award therapeutic sentences, but unless such sentences are supported by victim oriented restorative justice oriented approaches, the aim of sentencing may not be fulfilled. In most accident cases involving physical injury or hit, killing and run cases, the wrong doer hardly faces the victim in an apology seeking mode. Such wrong doers are often advised by their lawyers and families to resolve the issue by paying the compensation, undergo prison sentences (if any) and never to see or meet their victims because the victim may demand more money for rehabilitation or treatment. In some cases involving wealthy wrong doers, the young offenders are often sent abroad or to different cities by their parents after the sentencing period are over. This further reduces the chance of meeting the victim and seeking apology. In turn, this may make the wrong doer feel stronger especially when he/she realises that money can help him/her to get out of the legal mess. Interestingly the ancient practice of reconciliation and restoration justice in India involved forgiveness (Hunter, 2007). But in modern India seeking forgiveness has become more a subject of theoretical issue in moral value classes in schools. Unlike its western counterparts, Indian schools and colleges rarely have restorative justice practice sessions which may introduce children and young adults to fundamentals of restorative justice. This has adversely affected young people’s understanding about suffering of others especially when such suffering results from rash and negligent acts of the earlier. Further, schools and colleges in India rarely make safe driving sessions mandatory for students. There are however some educational institutions which may encourage students to spread awareness about obeying road traffic rules, but this does not necessarily include trainings for restorative justice for young people including young drivers.

ROLE OF LAW SCHOOLS AND LEGAL AID CELLS IN SPREADING AWARENESS ABOUT REGULATIONS OF ROAD TRAFFIC VIOLATIONS

As mentioned above, several schools and colleges across India have been campaigning about road safety rules. These

39 This information is gathered by lead author from her practical experience as a former panel advocate deputed to observation homes and women’s pre trial detention home.


awareness campaigns generally include safe driving methods including necessity for wearing helmets, following the traffic signals properly, need to give first aid to the victims of motor vehicle accidents, how to call the emergency assistance services including the police for helping the victims of accidents etc. Such campaigns are generally supported by the police (especially the road traffic department), the district administration and the school/college management. But these campaigns may not include discussions about restitution. Such campaigns largely target the offenders and bystanders and may not convey information about the rights of the victims including right to free legal aid etc, and the compensation that may be available to the victims or the family of the deceased victim. Presently all most all law schools in India have their own free legal aid cells through which free legal counselling, legal awareness about rights etc are conducted. Some of these legal aid cells are directly affiliated with the District Legal services authorities (DLSA) which are separate divisions of the courts. DLSAs are headed by Secretaries, who are judicial officers. These DLSAs monitor not only the functions of the legal aid cells (including those in the law schools), they also monitor execution and implementation of child rights and policies through Juvenile Justice Boards, Child welfare committees, the children’s Homes, Observation Homes etc; free legal aid and counselling in prisons for under trials and convicted accused who may or may not afford to hire lawyers etc. DLSAs also have duties to organise LokAdalats for settlement of compensations for various cases including motor vehicle accidents etc. In this backdrop it may be seen that while law students do get aware of the regulations of road traffic violation, rights of the accused driver, victims or their families, they may also be engaged in spreading awareness regarding the above mentioned issues as part of their clinical classes. This can be done through two phases which is discussed below:

CHANGE IN THE CURRICULUM OF LAW SCHOOLS:

In the 1st year courses, along with theoretical subjects like Motor Vehicles Act, the students may be engaged in practical training of spreading awareness. This can be taken up by Legal aid cells which may engage the students in spreading awareness about laws in schools along with road safety rules. Such students may also be trained in empirical research by way of collecting data from the schools, the traffic department and also from general public at large to know how many youth are driving at an underage, violate the traffic rules mainly because they are not aware of such rules, how many children are permitted by their parents or guardians to drive motor vehicles while they are not allowed to do so statutorily (so that the parents may be made tortuously liable) etc. Such activities may not only encourage the law students to learn the subjects with practical experiences, they may also be made responsible for teaching younger school students about road traffic regulations in child friendly ways.

In the 4th and 5th years when the law students are introduced to subjects like ADR, rehabilitation of adult and juvenile offenders, victimology and penology etc, the law schools should consider starting restorative justice training programs especially for young people who may be involved in road traffic violation. In this, the senior law students may be involved under the guidance of their subject teachers. It is further proposed that the counselling sessions under the proposed policy of safe driving centre model for India (Based on Safe driving centre model of Winnick & Perez(2009) should include restorative justice oriented sessions for the faulty drivers which should include the story telling session for the victims; this would not only help the victims to ventilate their anger, pain, trauma, this may also help the wrong doer to understand what the victims are going through and why such wrongs on roads should be condemned.

Adopting schools and villages by the law schools for the purpose of spreading awareness: Many law schools and their legal aid cells have adopted villages including those villages which are under privileged, may be in interior places etc, to extend their free legal aid centres there. These legal aid centres may be used to hold sessions on road safety rules, Motor Vehicle laws, restorative justice training etc, especially for the cause of the victims. These legal aid centres may also be used to spread information about ADR forums especially for motor vehicle accident claims, free legal aid and counselling. In doing so, the legal aid centres may also consider bringing some victims for story telling sessions whereby the younger children studying in schools would be made to realise what the victim goes through even after the offender is acquitted with fine or compensation is disbursd.

However, both the above mentioned programs may necessarily include the ADR officials from the courts like the Secretary DLSAs, the principal judges etc. This can be extremely rewarding for law students especially when they are encouraged and motivated not only from their law schools and colleges, but also from their future workplaces, i.e. the courts. The involvement of court officials may also reduce the chances of wrong practices of restorative justice like mediation with minimum compensation under threat or compulsion, forcing the victims by the village panchayats (who may be wrongly influenced by the wealthier offenders) to destroy the evidences so that the victims may never come up with claims for revise of compensation or more harsh punishment to the offender etc.

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PART V

CONCLUSION:

This article researches on various kinds of motor vehicle offenses that have been recognized under Motor vehicles Act and the Indian Penal code and the Indian penology in this regard. This article proposes that present punishment system may not be effective since it does have the therapeutic jurisprudential approach. Basing on Safe driving centre model proposed by Winnick & Perez (2009) this article proposes a novel policy which may prove beneficial from the penological and victimological aspects. Further, this article also proposes that victim oriented restorative justice approach should be applied for restitution of justice in road traffic violation cases by young offenders. Schools and higher educational institutions in India should be engaged in imparting restorative justice training to young people to make them sensitive about road traffic rules and accident victims’ needs.
REFERENCES:


INTRODUCTION

Restorative Justice has been spreading widely and there are more teachers adopting Restorative Discipline (RD) in classroom South Korea (SK) schools over the past ten years. The reason why RD has received such great attention from teachers and schools is that RD has been considered an alternative measure to the traditional school discipline such as corporal punishment. It was not until March 1, 2011, that corporal punishment was banned in all schools in South Korea (Strother, 2011). However, this nationwide ban was a controversial issue among teachers since the government had not provided the “comprehensive guidelines for alternative punishments” before the ban took effect (Marquez, 2016, para.7). This led to strong criticism from most teachers against the ban on physical punishment, while pushing them to struggle to find other classroom discipline strategies on their own.

To make matters worse, South Korea was facing the issue of school violence that had emerged as a serious problem. Against this background, RD emerged as an alternative approach to traditional discipline, an approach which could help repair broken relationships in the classroom and create safe learning environments. As a result, an increasing number of Provincial Offices of Education adopted RD as an official approach to school discipline. Since restorative discipline has been well accepted by school district offices, teachers have been exposed to learning opportunities and have tried to implement restorative practice in their classes. However, the driving force for the RJ movement in South Korean schools is rooted in teachers’ voluntary implementation of RJ (Kyung, 2014). In fact, before integrating RJ practice into discipline policies, the government took various measures to create anti-bullying programs, but they failed to actively raise awareness of teachers and schools about bullying. That is, making a school-level policy to prevent bullying was insufficient to increase the degree to which teachers could get involved in bullying intervention and prevention. For example, a survey found that although about 37% of teachers in Korea had anti-bullying training, their responses toward a bullying situation were not different from those without the training (Yoon, 2011). Studies have shown that no matter how many anti-bullying programs are implemented, the school-level efforts are not likely to lead to changing teachers’ responses to bullying cases if the programs fail to train teachers to change their mindsets and incorporate their realizations to their everyday teaching
will contribute to contextualizing restorative theory and practice within the notion of empowerment in South Korean educational settings by encapsulating the voices of RJ practitioners in schools.

(Yoon, 2011). Unless people could buy in the basic principles of the proposed policy, changes to policy or structure could not make a difference. As Bridges & Mitchell (2000, p.2) observes, “change is external while transition is internal... transition is the state that change puts people into”. Thus, RJ movement has induced changes to teachers’ internal mindsets, in a sense, that it could lead teachers to spontaneously practice of RJ values and become agents of changes.

Teachers who attended RJ workshops were empowered to use RJ in classroom and form study groups on RJ practice across the country, which eventually led to a grassroots teacher-led movement. Nonetheless, most of the research on RD in the country focuses on the positive influence of RD on students, such as effectiveness of RD in dealing with students’ misbehaviors and school violence, and the effectiveness of RD in empowering students to improve relational skills and build community (Jin, 2018; “Gyeongnam Provincial Office of Education”, 2018). In contrast, there has been little research on studying the process of how RJ empower and transform educators. This chapter will focus on examining how RJ empower Korean educators to experience the internal transition and induce external changes on relational and structural transformation.

This chapter will start with an overview of the history and background of the development of the RJ movement in SK. Then it will explore how the RJ movement has grown in schools by empowering Korean educators to transform their mindsets and interpersonal relationships in schools, and to become agents of change in the school system and educational policies. Through the educators’ narratives, it will explore the challenges facing the current RJ movement in schools and how the educators have moved their way through the challenges and suggest directions for further research. In conclusion, we will reflect on major findings and issues emerged from the voices of RJ practitioners. It is hoped that the discussion will provide relevant insights for the West as well as other Asian contexts. By bringing out the voices of Korean educators, this chapter will contribute to contextualize RJ theory and practice within the aim of empowerment in educational settings of SK.

This chapter is based on results of a phenomenological study collected through in-depth semi-structured interviews with 8 teachers in elementary or secondary schools from different places around the country. These educators have implemented RJ at both classroom level and at systemic level. We spoke with these 8 RJ practitioners about how RJ could empower them to transform and the challenges facing current RJ movement in SK. Interview transcripts were translated from Korean into English and quoted anonymously; and the data were analyzed by identifying the themes. The profiles of the interviewees are as follows:

Participant 1 is a primary school teacher with 25 years of experience in Province A. She has experiences with RJ practice in her school as a homeroom teacher as well as the Head of the Student Managing Department (SMD) for four years. She has also been the leader of a RJ study group in the Province A.

Participant 2 is a primary school teacher with 23 years of experience in Province B. She has been doing RJ practice for 9 years at classroom and school level. In addition, she has been running RJ workshops for teachers across the country and she belongs to a RJ study group in the Province B.

Participant 3 is a primary school teacher with 16 years of experience in Province C. She has practiced RJ for 7 years in her school as a homeroom teacher as well as the Head of the SMD, including facilitating workshops for colleagues and parents. She has also been leading a RJ study group in the Province C.
Participant 4 is a secondary school teacher with 25 years of experience in Province D. He has 5 years of RJ practice in the school as a homeroom teacher as well as the Head of the SMD. Moreover, he is one of the members who established a study group in the city and has been facilitating RJ workshops and dialogues for teachers in the Province D.

Participant 5 is a secondary school teacher with 16 years of experience in Province E. He has involved in RJ practice for four years, not just as a teacher but also as a member of a study group for designing and facilitating RJ workshops for teachers and principals in the Province E.

Participant 6 is a secondary school teacher with 18 years of experience in Province F. She has four years of RJ practice, not just as a teacher but also in the provincial office. She has contributed to making policies and establishing systems in Province F that can help teachers and schools to practice RJ.

Participant 7 is a retired teacher with 25 years of experience in secondary school in Province B. She has been doing RJ practice for 9 years and is the director of the RJ Center in Good Teachers. She has been facilitating RJ workshops for teachers across the country and has published a book on restorative discipline.

Participant 8 is a secondary school teacher with 8 years of experience of RJ practice in Province B. She has been leading a RJ study group in the Province B. In addition, she has been involving in designing and facilitating various RJ workshops and dialogues for teachers.

HISTORICAL BACKGROUNDS BEHIND THE DEVELOPMENT OF RJ MOVEMENT IN SOUTH KOREA

Growing interest in restorative justice has started in Korea among scholars, law practitioners, and civil society groups as early as the late 1990s (Cho, 1999; Park, 2000; Bae, 2000). However, its actual practice was very limited until an experimental project was conducted by the government and civil society groups in the period between 2006 and 2008. During these three years, non-profit organizations (NGOs) such as Korea Anabaptist Center (KAC, a former mother organization of Korea Peacebuilding Institute, KOPI) and Conflict Resolution Center (CRC) were joined in to run the first formal restorative justice project in Korea. The Victim-Offender Dialogue, particularly designed for juvenile cases, was conducted by the NGOs in partnership with Korean Institute of Criminal Justice (KICI). Three agencies namely, Seoul Metropolitan Police Agency, Seoul Family Court, and Juvenile Protection Institution, referred juvenile cases to restorative justice practitioners for restorative conference, where conflicting parties and trained mediators sat together to resolve the conflicts.

The primary goal of Victim-Offender Dialogue was to address both parties’ sensitive issues and needs; and to reach the best agreements that could sufficiently meet their needs. However, other deeper outcomes such as the restoration of relationships and transformation of current situation, structure, and culture that had caused harms, were also brought up during both pre-conference and actual conference meetings. Mediators pays more attention to the dynamics of relationships when both parties are interacting with each other than the list of outcomes such as financial restitution. Such an approach that CRC and KAC mediators used was called transformative mediation as it focuses on the transformation of relationships.

After the experimental project was ended in May 2010, Seoul Family Court appointed restorative justice practitioners and mediators to a Committee for Reconciliation to run restorative justice programs for juvenile cases. As the referred cases increased and the results of restorative conferences were satisfactory, other local courts began to adopt the program and eventually most family courts in Korea would adopt a similar model. Some of the mediators also took cases referred through non-official ways, such as from schools and local communities, and that was how school teachers first encountered restorative justice practice.

After corporal punishment was officially banned in all Korean schools around the year of 2011, school teachers tried to locate alternative measures for classroom discipline. Around that time, school violence became a hot issue in society and caused great concerns in the public. In 2013, a survey of 11,714 students based on 98 schools in Seoul revealed that “49.2% of the respondents bullied their classmates ‘at least once in the last year” (Bax, 2016, p.96). In addition, as an unexpected consequence of the increase of Internet use, the rates of cyberbullying were also increasing in South Korea (Lee S.H., 2016, p.152).

Meanwhile, a group of Christian teachers went through the series of restorative justice trainings organized by KOPI (Korean Peacebuilding Institute) in Seoul and began to share it with others. Some civil society organizations supporting
the restorative justice movement are the propelling forces behind the RD advocacy, such as the Christian teachers’ association and Good Teachers Association. They are first groups that received training in restorative justice and started to practice RD in schools. However, their approaches generally were not welcomed by Korean churches and Christians. Mainstream churches and Christian groups in Korea were not yet open to the paradigm shift of restorative justice at that time. There are historical and political reasons behind this as mainstream Korean churches were basically in opposition to the communist ideology. After KOPI had conducted more workshops and developed produced a number of restorative discipline resource packages, more teachers were then becoming more interested in restorative justice approaches — seeing it as a useful tool for school discipline. Restorative discipline trainings were spread more widely in the country and the number of teachers who adopted RD at classroom grew steadily from 2012 to 2015 in Gyeonggi Province where KOPI was situated. RD has increasingly been adopted as an official approach to school discipline by different Provincial Offices of Education since 2015.

With the increasing use of RD, restorative justice has made important contribution to building up a healthy education community across the country. When there is trouble or misbehavior, teachers and students will focus on repairing the harms through a participatory process. Restoring broken relationships and broken communities that have been affected by wrongdoing, is the key of RD intervention. In the past, under the retributive school environment, troublemakers and offenders of school violence are often expelled from school and victims are neglected. Under the process of RD, the focus is on how to restore both victims and offenders so that they could be integrated into the community in a healthy way. In order to achieve that restorative goal, it is critical to start with a healthy and strong community. Humans are social creatures. Teaching young people on how to deal with conflict in a rational way is an important aspect of education setting where competition and domination are too often signs of success.

Now in South Korea, there is a large number of individual teachers and study groups who participate actively in implementing RD at their classrooms and schools. There are two main reasons why RD spread so widely in Korean schools in such a short period of time. First, RD meets the needs of teachers who are searching for a right educational approach to students’ misbehaviors. Under the retributive justice practice, teachers’ focus is on what happened in the past by punishing the wrongdoers. Under the restorative justice practice, the focus is on restoration of wholeness of individuals and local communities, and the entire society that were affected by wrongdoings and injustice actions. One of biggest differences between retributive justice and restorative justice is the “tense” - focus on future vs focus on the past. It is obvious that the “tense” of restorative justice is the future, while retributive justice focuses primarily on the past. Restorative justice deals with past issues in order to move toward to future transformation between conflicting parties, the structures or cultures that have caused the harms and pains. Thus, restorative justice has to involve a broader group of people who were affected by the misbehaviors. The “tense” of education is also about the future because education aims at changing student’s future development. That is why teachers find restorative discipline an educational approach which is better than the traditional approaches. Second, teachers become realized that traditional disciplinary methods, based on Confucian values embedded in a hierarchical society, may need to be changed for the new generation who are growing up under modern world. As time goes by, the collective culture used to be dominant in schools should be challenged and changed. As a result, a top-down approach in school discipline does not work anymore and a bottom-up approach is gradually welcoming instead. After all, the change of discipline paradigm from punitive to restorative is an inevitable outcome when the society has shifted from an authoritarian society to a democratic society.

Social transformation requires courage and creativity, especially among the pioneer groups. Whether restorative discipline will eventually make changes to the mainstream culture of school or not may depend on whether teachers are deeply bought in the philosophy of restorative justice and used RD whole-heartedly. At the end of the day, it is important for teachers to understand that RD is not a just disciplinary approach but an educational paradigm shift and future direction of education.

HOW RJ EMPOWERED TEACHERS TO BE INTERNALLY TRANSFORMED

FROM HOPELESSNESS TO HOPE

All of the practitioners interviewed commonly shared that RJ empowered them to regain hope for education in the country by showing them the way to repair and restore broken relationships. The relationships mentioned here are not limited to those between students but also relationships among teachers and students. The teachers shared to us that they once had a feeling that they were coming to a dead end in education when they were struggling with school violence in classrooms. However, RJ empowered them to have hope by giving them answer on how to foster positive relationships and support students’ future growth, in which they found the true essence of education and new mean-
ing as a teacher. Participant 8, explained, “RJ empowered me to have hope for Korean public education. I had thought there was no solution to classroom disruptions facing Korean education so I felt hopeless. Especially, I had despair in Korean education when I saw those teachers who were neglecting this crisis, sitting back and doing nothing. But I came to have hope for the future of Korean education. Because I thought if we practice RJ, we can not only revive our education system but also our society.”

Participant 7 also noted that RJ empowered her to find hope in the middle of darkness by showing her the way to build peace. Before she learned about RJ, she as a teacher of ethics was feeling hopeless and worthless, watching her work go in vain without knowing how to educate students to change their misbehaviors. She said, “…I was at rock bottom. I was teaching ethics and values. However, it did not seem like my students were learning about values but instead they seemed to be learning about how to swear in school… This made me feel hopeless and ashamed as a teacher of ethics… I thought to myself I couldn’t do this anymore because I felt hopeless and worthless. I regretted having chosen to teach ethics. This is because I felt useless, watching myself, as a teacher of ethics, being incapable of educating the students to change their misbehaviors … I wanted to find a way to communicate with students peacefully instead of yelling at them. So I started to study non-violent communication. It was helpful but not enough. I realized I wanted to bring peace to the classroom and school…When I learned about RJ, I felt like I had found a breakthrough. I felt I found light in the darkness. It just felt so right. Although I did not have any experiences with RJ practice and the conditions were not easy, I had no fear. Since I was so certain that I found the answer, I did not hold back from doing RJ.”

The practitioners asserted that RJ gave them clues about the problems they were grappling with as a teacher, which empowered them to find hope. They trace the source of the empowerment to RJ philosophy and practice. The teachers I spoke with emphasize these two elements were key to identifying the root causes and the fundamental solutions to the problem, which empowered them to change their perspectives and experience internal transition. I will now provide a brief discussion of how RJ as a philosophy empowered teachers to experience their internal transition, then focus on how RJ practice played another important role of empowerment.

**RJ PHILOSOPHY AS A SOURCE OF EMPOWERMENT**

For Participant 1 explained about why did her retributive approach failed in spite of her numerous efforts to achieve justice. She said that when she learned about RJ, she found the last piece of the puzzle after 15 years of trial and error: “Even though I had retributive perspectives of justice, I always studied to learn how to prevent school violence, making constant efforts to find the solution to solve the problem …so I studied NVC and positive discipline techniques... but RJ provided the theoretical foundation that helped me understand why I should use all these strategies I had learned. It provided the foundational framework that explained to me why I should use NVC, why I should use I-messages, why I should listen…” Especially, she points to the victim-centeredness of the RJ approach as the foundational value that explains the reason for her failures to deal with school violence for 15 years before she encountered RJ: “…I realized I had never looked at the victims before and that shaming leads to violence without fundamentally solving the problem… When I made the students that did harms write a letter of apology, I only focused on whether their handwriting was neat rather than whether they sincerely apologized to the victims because I cared more about whether the offender obeyed my authority as a teacher by doing what they were told to do, rather than whether the victims’ voices were listened to. When I was taking a carrot-and-stick approach to discipline toward those who did wrong, I think I kept them from looking inside themselves and made them caught in a vicious cycle and did not look at the victims.”

An internal transition is also described in the following reflection from Participant 2. In the words of Participant 2, many elementary school teachers believe the purpose of primary education is to develop students’ basic living habits and they do this by taking controlling approaches, which “disempowers the students by sapping their inner strength”. However, RJ philosophy empowered her to transform her educational philosophy after realizing the negative consequences of shaming in controlling strategies to discipline: “I used to discipline students by controlling them. I am usually smaller in stature than the students I teach. This is why I practiced Japanese fencing for a year which I believed could help me to have them under my control. I used to bring my bamboo sword into the classroom on the first month of the new semester, warning the students that I am stronger even though I am smaller… In this way, I took hold of my class now I believe every child already has the potential ability to live their own lives inside and the role of teachers is to help them discover the ability by themselves, not creating something that doesn’t exist within them, which I believe is building their inner strength, which is empowerment.”

**RJ PRACTICE AS THE SOURCE OF EMPOWERMENT**

All of the practitioners mentioned above recognized the importance of RJ philosophy as a source of empowerment. However, RJ philosophy wasn’t what led every practitioner to experience internal transformation. In fact, for many teachers I spoke with, it was the experience of RJ practice that played a key role in empowering them to transform their perspectives. Especially, those who initially were suspicious about the realistic possibility of RJ went through their internal transition through direct encounters with of RJ practice. For Participant 8 said that RJ seemed to be too idealistic
to practice in school settings when she first heard about it in a workshop. However, when she witnessed the broken relationships among students being reconciled through a RJ dialogue, she changed her perspective on justice: “When I happened to attend a RJ workshop in my school, my first impression was that it would be unrealistic. Especially the idea of engaging both victims and offenders in RJ dialogue seemed to be impossible for me... Not much later, there was a case of school violence that occurred in my school. I contacted and asked for help from the facilitator who had done the workshop in my school. Unexpectedly, I was so surprised and touched to see the reconciliation process through the RJ dialogue, which I had assumed would never be possible... I also felt relieved to try the RJ approach when imagining what would have happened to the six students who were considered as alleged offenders, if the case had been dealt with in a traditional approach, which was retributive. I had thought of those six students as very bad but it turned out that they were not so bad... This experience changed my skepticism about RJ and I started to practice RJ and introduce it to my colleagues and friends.”

Moreover, according to Participant 7, RJ practice is empowering in that it not only gives courage to practice the philosophy, but also helps clarify and deepen the understanding of philosophical values of RJ: “RJ practice made a surprising change in me... The people that taught me the most about RJ and peace were those practitioners working in peace-building NGOs in SK... meeting their lives opened the way to a new world because I saw and experienced their lives that embodied the philosophy they preached... this experience gave me courage and empowered me to implement RJ practice in school settings, which made a huge impact. I was so surprised to see realize that there was a huge difference between before and after practice in that my understanding of RJ got deeper, more clear, and broader through practice.”

Concurring with Participant 7, Participant 6 found that RJ practice through life could empower element. She described that the lives of RJ practitioners empowered her to empower others. According to her, she found hope the first time she attended a RJ workshop because she was empowered by “the people whose lives were keeping their words, doing justice that she had always being trying to pursue in her life.” She also added that not only indirect experience through other practitioners’ lives but also what she experienced through her own practice strengthened her inner power to empower others: “While I was sharing my stories with strangers in a circle who listened to me and supported my being, I felt my inner being was strengthened. This gave me more comfort and confidence to reveal my inner self to others when I facilitated workshops or did lectures, which influenced others in a positive way and led other teachers to change their mindsets.”

FROM INTERNAL TO INTERPERSONAL TRANSFORMATION

“What we choose to do is empowered by who we choose to be.”

All the RJ practitioners who experienced internal transformation chose to start from where they were, trying to find and implement what they could practice. According to Participant 3, the biggest change that RJ brought about in her life was that RJ empowered her to voluntarily apply for the Head of the Student Managing Department (SMD) in her school, which is the position in charge of dealing with school violence within the school that teachers rarely apply for: “I voluntarily applied for the head of SMD without any burden because I really wanted to take the position. I realized that the head of SMD has a say in dealing with cases of conflict or violence in elementary school while the range of what an individual teacher could do just as a class teacher was limited. If I voice my opinion as a homeroom teacher, suggesting that I want to deal with a case of school violence from a restorative perspective, it can be considered overstepping the authority of the head or interfering with him or her. However, the head has more power to influence teachers as well as parents so that they could view and address the case from a restorative perspective. And I experienced the power of the position as I imagined after I took the role.” This voluntary practice is also shown in the reflection of Participant 1, who has been the head of SMD for 7 years but this year voluntarily chose to take the role of the homeroom teacher as well as the head of SMD. Even though it is not common for one teacher to take two positions in a school because of its increased workload and work intensity, she decided to do so, envisioning that she could cope with conflict and violence more proactively: “I am holding two roles in my school, a sixth-grade homeroom teacher and the head of SMD. Looking back on my past seven years of experiences as the head of SMD, I realized that when parents asked me as the head of SMD to deal with cases of school violence, they usually did so after the case grew too serious and complicated. Usually, the most serious cases of violence occur among sixth graders so I thought to myself if I become a homeroom teacher in charge of the sixth grade, I might be able to prevent the cases from getting worse because I could notice the latent conflicts before they get more serious, which is impossible to recognize as the head of SMD. Now I think I made the right decision although it makes me physically very tired.” This voluntary implementation of RJ is shared by all other practitioners who attended interview. They acknowledged that RJ empowered them to willingly practice RJ where they were, regardless of their positions, which led to empowering their students and colleagues to transform their mindset and practice.
TRANSFORMING STUDENTS

Another shared experience on the journey of RJ was, in the words of Participant 1, “the transformation of students”. Teachers who embody the philosophy of RJ empower their students to be transformed. The practitioners interviewed suggest that it is critical that we pay attention to the process of students’ transformation (what drives transformation) as well as the outcome of the transformation (what are the results of the transformation). This is because if the process is incorrectly identified or misinterpreted, this can lead to co-optation of RJ, which is one of the biggest challenges facing RJ practitioners.

What drove students to experience personal transformation was not a single RJ program but the philosophy of RJ in teacher’s everyday life. This is why Participant 8 asserted that teacher’s focus should be not related to implementing RJ programs but on how well you practice the core philosophy that you preach in your life: “the point is whether we embrace the philosophy of RJ. The philosophy is centered on restoring students’ relationships and developing their internal growth. The way to practice the philosophy doesn’t have to be fixed. The way can change depending on the context. It doesn’t have to be circle process. What matters the most is whether we embody the philosophy. When we forget the core philosophy, implementing the circle itself can become the goal.” According to her, when teachers just adopt the form of circle process without understanding the philosophy and the purpose becomes how well they implement it just as a program, this is likely to lead to disempowerment and resistance: “In some schools, it is mandatory for all the teachers to do circle in the classroom on the first day of the new semester. The teachers are given center-piece, talking pieces, candles, and circle questions. However, these teachers usually don’t understand the core philosophy of the circle and don’t have the experience of internal transition. Their practice is not voluntary so they just follow the manual they were given. I have heard some students in one of these schools express their fear of the circle process. They say they hate it and the awkwardness of sitting in a circle and feeling pressured to say something they don’t want to share. They don’t know why they have to do circle, the purpose of the circle. They just do the work of circles without understanding the philosophy behind it, which is the core element for personal transformation.” She suggests that only when teachers themselves embrace the core philosophy, they can practice with integrity, which can lead students to experience personal transformation: “… when teachers open their heart and provide safe space in a circle where students can share their true feelings and experience deep connection, this empowers the students to voluntarily practice it in other contexts such as student club meetings... They get to realize the way to interact with others on their own.”

Practitioner Participant 5’s story is another example showing the power of restorative circles in transforming students’ mindset and practice when RJ philosophy is alive in practice. This is reflected by his efforts through the practice of trust circles, harm circles, and victim-offender dialogue in his class to empower students to take the ownership of the process of addressing their issues with a community perspective so that the students can give their own voice and build their capacity to solve their problems on their own. According to him, when a problem arises in his class, he always tries to find how to solve the problem from a community perspective rather than viewing it as an individual problem: “Two years ago there was a bullying case in my classroom. About two-thirds of the class suffered from the case, I led a restorative circle, which provided a space for those who were bullied to share their stories from their perspectives and the bully was given the opportunity to listen to those stories. Since the bully promised to make efforts not to do bullying any more, it seemed that the case was solved. However, the next semester another harm was done by the same bully. What was surprising to me was that the students harmed by the bully went straight to the head of the SMD to express their discomfort, naming what happened to them and calling on the head of SMD to solve this issue. What I was surprised to see was that they did not keep themselves silent. In fact, many of them used to be quiet at the beginning of the semester but they got empowered by circle process to get what was on their minds. Moreover, what was noteworthy here is that when the students affected recognized that the bully did not keep the promises based on the resolution circle, those harmed did not react individually, but tried to solve their issue as a community.” His genuine practice empowered students to transform themselves by not only finding their own voices and speaking up, but also by building their capacity to restore broken relationships and build community by themselves.

TRANSFORMING COLLEAGUES

The voluntary practice of these practitioners also had impacted changes to their colleagues. What led the colleagues to experience internal transition was not different from what led their students. It was the practitioners’ practice with integrity that ultimately transformed their colleagues. Many practitioners made efforts to empower their colleagues, making the most out of their positions and providing support for them. For example, Participant 3 organized a RJ gathering for her colleagues in her school, where she invited her colleagues and provided space for them to be empowered: “In the first year that I started to work at the school, I organized a RJ club for teachers, and I have been trying to provide space for them to experience the empowerment of RJ. There are not many teachers attending the gathering because participation is voluntary, but what is meaningful is that we have been gathering consistently.” Here, she emphasized the concept of voluntary participation because she believes that voluntary participation can reduce resistance against RJ among colleagues, which can lead to their voluntary and sustainable practice: “Those teachers who have experi-
enced connection in a circle have voluntarily and consistently participated in our gathering.” As the head of the SMD, Participant 3 not only provided space for her colleagues to be empowered, which included check-in circles, RJ workshops, and book discussions, but also offered RJ intervention support such as RJ dialogues whenever needed. Similar efforts by other practitioners have also gained recognition from their colleagues. Participant 8 also explains, “I invite teachers to a circle where they can meet and share comfortably what they have in their heart and mind…I hear from my colleagues who comes to the gathering that they really love this time for sharing. I think it is because the time allows us to be reminded of our philosophy of education and reflect on the purpose of education, which we easily forget in our hectic lives.” However, Participant 8 also confesses that these efforts do often encounter resistance and suspicion among her colleagues: “Years ago, I suggested RJ dialogues to deal with a case of conflict but the student involved in the conflict caused more trouble soon after the dialogue... this led many of my colleagues to resist RJ approach.” According to her, those teachers responded, “Look, I told you. This approach did not work at all. This student did not change at all. There is no point in using the approach you suggested. We need to punish him more harshly.” Participant 4, concurred with Participant 8 that it is challenging to influence unsupportive colleagues to change their mindset and practice. According to Participant 4, many teachers have a tendency to refuse to accept change. For this reason, even though most of the teachers in his school have heard of RJ, they usually don’t practice it: “My colleagues are not trying to learn and try new things because it is hard for them to do so and they are so busy. So I introduce RJ only to those who are interested. Even though I hold RJ workshops in school, there are not many teachers within my school who are actively engaged in practicing...”

Even though there is usually some resistance and skepticism among colleagues, it is practitioners’ genuine practice which made changes to their colleagues over time. The following is an example given by Participant: “A homeroom teacher in charge of the class next to mine disciplined students in the opposite way from mine. Before she was transferred to another school, she said something to me that I did not imagine that I could hear from her. She said “RJ did not feel right to me but looking back on the past year, I realize even though I have tried to control my students, I found myself failing to do so. On the other hand, your students looked so free but they seemed to have their own order. I just wanted to say that I thought your way [RJ] could be helpful to the school.” It was so touching to hear this from her because I did not expect to hear such recognition from her.” This unexpected internal transition among resistant co-workers was revealed in the reflections of some practitioners. According to Participant 2, “What is interesting is that even dissenters get to feel uncomfortable when they are transferred to another school where the communication is one-way and top-down at the staff meeting”. This is because those teachers unwittingly embraced what they were resistant to through practice. As they got used to the restorative staff meeting where teachers sat in a circle, they got to learn that one person should not dominate the conversation and that everyone has the right to share their voice, Participant 2 explains. Her genuine practice of RJ, led by example, inspired even those who were indifferent to and resistant to RJ to transform themselves from within, which led to a transformation of school culture.

STRUCTURAL CHALLENGES

Practitioners’ transformative experiences empowered by RJ practice do not imply that school classes are automatically transformed to peaceful places. There are many challenges facing the Korean educators. Many parents as well as teachers are not yet supportive to the use of RD since it is a relatively new concept. It is a common misunderstanding among parents that RD is a ‘soft’ punishment. In addition, there were additional challenges due to a competitive school climate. Specifically, two structural challenges were emphasized as the biggest barriers to the current RJ movement in Korean education: bureaucratic and retributive structures.

BUREAUCRATIC STRUCTURE AND CULTURE

Most of the practitioners pointed out that the biggest barrier to the RJ movement in the Korean education system is the bureaucratic structure and culture, which is based on the belief that “professionals are in a better position to make decisions for those who are directly impacted by social events in their own lives” (Zehr & Towes, 2004, p.294). Who are considered to be professionals in the Korean educational settings? The so-called professionals usually refer to those working at the education offices who possess power to make and implement education policies. The problem is that the “professionals” usually don’t have the expertise that is required for their positions. In Participant 1’s wordings, “We usually call the supervisors at the education offices professionals, but in fact most of them are not qualified as true professionals because they are just randomly assigned to their positions based on a personnel appointments system that requires them to be transferred to another position every few years....not based on their expertise” Nonetheless, the bureaucratic structure render power to those “professionals”, which allows them to take the ownership of RJ movement from teachers who are the driving force of the movement (Zehr & Towes, 2004). Participant 8, who had been involved in the process for planning to initiate restorative discipline in schools in Province B, is also involved in an
advisory panel. However, according to her, professionals have not facilitated the practitioners’ to possess ownership of the process of the movement. Instead of empowering the practitioners to own the process of RJ movement, they sometimes focused on using RJ for their own benefits: “Even though we wanted to help the Provincial Office of Education to successfully initiate RD in schools, it turned out that the supervisors at the Office were just focused on showing off their achievements and using them for their own benefit such as getting a promotion. While working with them, we kept emphasizing the importance of the philosophy of RJ as the core, convincing them that only when the philosophy of RJ is fully understood and embraced, the policy can succeed in leading educators to genuine practice. However, they did not listen to us. They were only focused on making restorative justice program manuals without deep understanding of the philosophy, spreading the programs as fast as possible like fast food, and increasing the number of schools adopting the programs… We kept emphasizing that the policy should put first raising awareness of the philosophy of RJ, but at some point, they told us to quit working as advisory panel members if we did not agree with their policy any more… So we stopped working with them.” The examples of restorative practice that she and her study group members had offered to the Office were used in the manual, however, without their names cited. Even though RJ programs have been widely spread among schools in the province, RJ was co-opted with the so-called “professionals”, which led to unexpected consequences. Participant 8 explains, “If you ask any teacher in B province whether they know RJ, they might say yes because the Office succeeded in spreading the programs as they wanted to. However, most of the teachers actually don’t know what RJ really is because it is misinterpreted because of the lack of philosophy in the program. Many teachers think RJ is a program such as circle process.” Participant 1 concurs with Participant 8’s perspective that the top-down implementation approach of bureaucracy failed to give ownership of the movement to the practitioners at the grassroots and undermined the development of RJ movement by the co-optation of RJ for their own benefit. “I was interested in how successfully RD policy was implemented in B province...but what I hear from many teachers in the district, is that they are sick and tired of it. They say they hate even sitting in a circle. They thought of the policy as far too disconnected from their educational settings. Their reactions suggest the failure of the policy because the Education Office took a dominant role without providing ownership to the teachers at the grassroots who have the practical knowledge and know the reality better than any “professionals”. The supervisors at the Office tried to spread the programs without the philosophy. However, this did not succeed in leading teachers to voluntarily practice RJ because embracing the philosophy is key to genuine and voluntary practice.”

This bureaucratic structure and culture also exist within the hierarchy of the school system where the hierarchy starts with principals, then head-teachers, and ends with teaching staff. However, Participant 2 points out that this structure is also strengthened by teachers who internalize it and conform themselves to the hierarchical culture: “At teachers’ meetings the communication is always top-down…. Most teachers do not resist the culture but obey it …” It is the hierarchical structure that obstructs the practitioners from creating a restorative school culture, Participant 3 explains: “…because of the hierarchical structure within school system, even though we sit in a circle and share our thoughts, the consensus we reach in the circle is usually rejected by principals. This makes teachers helpless and powerless. The hierarchical structure puts too much power on principals over teachers... so no matter how hard I make efforts to change the school system, I feel limited because of the pressure from the top authority that doesn’t allow me to do so in the way that I want to...” The reflections of the practitioners suggest that the bureaucratic structure and culture embedded in Korean educational settings disempowered the educators at the grassroots by taking the practitioners’ ownership over the process of the RJ movement, which is one of the biggest challenges facing Korea RJ practitioners in education.

RETRIBUTIVE SYSTEM AND CULTURE

The current school violence laws in South Korea have yet not allowed teachers to take the RJ approach for dealing with school violence. The school violence prevention law revised in 2012 is based on the retributive justice paradigm. Thus, what teachers are trying to do in class management with RD and the government’s official approach to school violence are contradictory. The law allows school districts to organize an Autonomous School Violence Solution Committee (ASVSC) when a case of school violence occurs; and the Committee is required to investigate the case and determine the actions to take, which must be notified to the Education Office (Hong et al., 2014). Most notably, this law does not allow schools and teachers to bring victim and offender together for any dialogue, which conflicts with taking a RJ approach that involves victim and offender for restorative dialogue. In Participant 7’s wordings “It is illegal to take a RJ approach to deal with school violence under the current law. So even though teachers learn about restorative circles and dialogue, they are discouraged from practicing RJ in school because they are afraid to be disciplined for not following the law.” In addition, under the law, there is little room for the victims’ needs to be reflected in the process and the outcome. This is because it is the Committee that makes the decision on the measures to be taken such as suspension, expulsion and community service, which have little to do with meeting the needs of the victims. Participant 3 concurs with Participant 7, saying “Many teachers want to take a RJ approach in their context, but this is a violation of the law, which can lead them to face legal action against themselves.”

In spite of this legal barrier, all the teachers interviewed were taking the risk of doing RJ practice. Participant 1 explains, “We all know about the limitations of the current law. In fact, what I am doing now is illegal under the law. I must fol-
I think the most urgent thing to transform is not the retributive legal system but the retributive culture embedded in our mindset: “I think the retributive law can be used as an excuse for not doing RJ because when you have a will to do RJ, you can still find a way to introduce the restorative approach to the victims’ parents as an option before they take the steps based on the manual that the current law specifies... I always invite parents to consider RJ as an option, saying it will not be too late to take the steps specified by the law if they try RJ approach first but then they are not satisfied with the result. So far all of the parents taking RJ approach have been satisfied with their decision to choose the RJ process... I think the most urgent thing is not revising the current law but changing our mindsets from retributive to restorative...” Participant 3’s perspective is also reflective of Participant 1’s point of view that it is more critical to transform our perspective than changing the current retributive system. This is because even within the existing retributive law, the process can still be restorative if the people within the system have restorative perspective. Participant 3, who is the head of SMD, a member of the committee in her school, explains “I think what counts is not whether we call a meeting with the Committee, but rather whether our attention is on identifying the needs of the students involved and helping them to be met so that the process is ultimately helpful for the students, which is restorative perspective.” As an example, she describes a meeting for a case of school violence she led: “When I had to lead the meeting of the Committee one time, I kept trying to think about the way to lead the meeting to help students and their parents. So before the meeting was held, I asked the members of the Committee to think of the meeting as the way to help restore students and their parents, not as a means of punishment... Even while I was leading the meeting, I constantly encouraged the members to view the meeting as the place to get to know what kind of help is needed for restoration.”

In fact, retributive culture is deeply ingrained in school culture. As Participant 5 puts it, “Teachers too often take retributive approaches to solve problems without any thought”, but retributive culture is not just seen in school settings but also in parents’ perspectives. According to Participant 3, “Too often students’ parents respond in retributive ways. Oftentimes parents tell their children to hit back when they get hit.” The reflections of the practitioners demonstrate that it is critical to cultivate a restorative perspective as well as build a restorative system. This is because the system reflects the culture and the culture is reflected in our perspective. Without changing how we view the world, it is hard to transform the culture and system.

FROM INTERNAL AND INTERPERSONAL TRANSFORMATION TO STRUCTURAL TRANSFORMATION

FROM SUFFERING TO THRIVING

In the face of structural challenges, the practitioners interviewed were struggling with the gap between “the ideal way to work” and “the reality of how they can work” (Lipsky, 2010, p.22). Participant 7 explains the inner pain suffered by her when the school system forced her to compromise between the path she wanted to pursue as a RJ practitioner and the reality of the school setting: “As a teacher, I felt I was living in two worlds, the reality and the ideal... the distance between the reality of what I was asked to do and the ideal of what I wanted to pursue as an educator seems to get bigger. This contradiction makes it hard to protect your inner soul. Within the system, the harder you work, the more you feel you contribute to intensifying the status quo... you have to compromise between what you are asked to do and what you originally wanted to do to survive in the current school system. If you don’t, you will suffer.”

This gap can surface in different forms depending on the context but what all the practitioners commonly experienced was the limitation they felt as an individual practitioner in the face of the structural challenges. Participant 1, the leader of the RJ study group in a province, suggests the limited capacity of an individual practitioner and the need of a support system and building solidarity: “Sometimes I find myself getting burnt out because of the lack of support systems. It is important to build solidarity. You get to feel lonely without supporters around. Sometimes I feel lost as the lone practitioner in my school. Without support, you cannot figure out where you are, whether you are doing right or not. As the leader of the study group, I have to encourage and lead the members of the study group but I sometimes I have a mental breakdown because of the lack of support that I need.”

However, what is noticeable here is that these challenges were not leading the practitioners, including Participant 1, to despair but rather broadening their horizons, connecting individual and interpersonal changes to structural transformation. They recognized that personal changes are not strong enough to address the structural challenges. Then they chose not to become hopeless but to keep their mind broaden, engaging in transforming the school system, and changing educational policies through solidarity building.
Practitioner Participant 2 used a metaphor to emphasize the importance of structural change based on forming solidarity: “Influencing one person to change is not enough… What I realized was if the society is not changed, there is a limit of the extent to which the school can change. Building solidarity to change the system is important… Even though you water and fertilize flowers, they cannot grow if there is a big tree that shade them. No matter how hard you try, if you don’t cut down the tree, the flowers cannot get enough sunshine to grow. If you really want to create a flower garden, you need to cut the tree, which needs to be done together, not alone. This is why I got to be actively involved in policy advocacy.” Here, she used another metaphor to stress the importance of recognizing the slow pace of change and keeping on the journey with a faith in the influence of individual practice over time: “I think it requires a considerable amount of time to change our society. I consider myself as one of the people who keeps watering bean sprouts… When you water bean sprouts, not all the water is soaked into them but they grow over time. Similarly, the efforts I make can lead to social change little by little over time, not immediately. I am just partly contributing to the whole change… I played a part of changing the stream of our times and it may not be possible to see the result in my generation… We are just sowers.” Affirming the significance of consistent practice based on the belief that we are going in the right direction, Participant 1 also contends that “all we can do is to keep moving forward consistently, to keep on the journey in faith. Because what we want to change requires more than the capacity of an individual. It requires not just changing educational settings but also changing other areas including the judicial system. Whether our efforts lead to success or failure is not determined by individual work but far beyond what an individual is able to do. So it is important to believe that you are on the right track, which sustains you to keep on the journey.” Both Participant 2 and Participant 1 realized the harsh reality but they did not allow the reality to define themselves.

**INNER STRENGTH, SOLIDARITY, AND STRUCTURAL TRANSFORMATION**

Despite the limited capacity of an individual to transform the structure, and the slow pace of change, what led the practitioners to keep moving forward was their inner strengths empowered by their experiences of RJ practice. According to Participant 2, a primary school teacher with 23 years of experience, “As I practiced RJ, I became certain that this is the right way. I believe that the way of respecting and listening to each other is the right way of life. This belief is based on my experiences. When I started to live in a restorative way, I felt empowered and transformed. My life changed and I was liberated. And I saw my students being transformed as well. This is why I couldn’t give up on this way in the face of the challenges…” Viewing internal power as integral to sustainable practice of RJ, the practitioners highlight the significance of building solidarity to make their way through structural challenges. Participant 3 puts it this way, “I think it is empowering to watch students being restored and growing… Also I think it is empowering and sustaining for the practitioners to get together, connect with each other and share the vision with one another. It helps to strengthen our internal power, which I believe enables us to hold onto hope even if things go against our hope… These experiences empower me to take courage to give my voice to what I believe is the right thing, to do the right thing.”

The core concepts of internal power and solidarity emphasized by Participant 2 are also reflected in the question that Participant 7 was struggling with: “How can we build the internal power of teachers so that they can be prepared internally to embrace students?” According to Participant 7, “The most critical issue facing education is about how to build teachers’ internal power to address educational problems.” She thinks the answer on this issue is encouraging teachers to build solidarity instead of depending on the support from the outside. She believes “it will be hard for teachers to sustainably practice RJ without forming solidarity.” This perspective drew Participant 7 to focus on building solidarity among educators that leads them to get involved in policy advocacy. In collaboration with different peacebuilding organizations, she initiated a long-term project called “Community Talk for Dealing with School Violence” to reform the current school violence prevention law in order to allow teachers to take a RJ approach to address school violence. In Participant 2’s words, “the biggest barrier to practice RJ in school is the current law but an individual effort to reform the law has its limits because of strong public opposition against a RJ approach. This resistance mainly comes from a lack of understanding of RJ.” In order to change the retributive system, Participant 7 felt the need to build solidarity by raising awareness of and deepening understanding of RJ among the public. To this end, she has implemented a project since 2016 by inviting those who were harmed by school violence to share their positive experiences with RJ approaches with other people such as parents and policy makers. Participant 6, a secondary teacher with 18 years of experience, is also another practitioner who went beyond personal transformation to get involved in transforming the system. She was a high school teacher for 18 years before she started to work in the Provincial Office of Education where she plays a key role in building a foundational system to establish restorative school culture: “I struggled to find what needs to be done to create a restorative culture or system in school that helps teachers pursue RJ… now I am grateful that I am in a position where I can contribute to building the foundation that helps schools to create a restorative culture.” Not only are these practitioners internally empowered by RJ but also they have become change agents of the RJ movement who are actively involved in structural transformation.
CONCLUSION

South Korea has been appreciated for its academic achievement shown in the PISA (Programmed for International Student Assessment) test (Park, 2015) by her counterparts. For example, the 2012 PISA results showed that “Korean students rank first in math, third in reading and fourth in science among OECD (Organization for Economic Co-operation and Development) countries”, which is why international leaders including the former US president Obama repeatedly applauded Korean success in education (Callahan, 2015, para.3). However, its PISA rankings somewhat mask it’s the problems underlying the education system. One of the most serious issues South Korea facing is the prevalence of school violence. Although the South Korean government has tried her best to develop measures and prevention programs for dealing with the issue, they measures failed to help teachers to deal with conflicts and challenges that teachers are facing in classroom (Hong et al., 2014). In addition, the government officially banned corporal punishment in all Korean schools in 2011, which was the main approach for teachers to control the class and discipline students’ misbehaviors including school violence. Without an alternative way to deal with school violence, the Korean educators felt lost and helpless in the classroom.

Against this background, RJ approach has received growing attention from educators as an alternative measure to resolve school violence, leading an increasing number of teachers to voluntary practice of RJ, which has been the root of the development of the RJ movement in Korean education (“Good Teachers”, 2013). This spontaneity of RJ practice is clearly shown in the teachers’ willingness to take RJ approaches to address school violence, running the risk of facing legal action for violating the current school violence prevention law. In addition to transcending the legal barrier, the educators’ voluntary practice stands against the retributive school culture. The retributive culture is shown in a research finding that 60% of South Korean teachers think that the ban on physical punishment results in students’ bad attitudes toward teachers and an increase in the rate of students’ misbehaviors, which is why corporal punishment needed (“Ban on corporal punishment”, 2011).

What led the educators to voluntarily get involved in RJ practice? The one-on-one interviews with the practitioners revealed that their voluntary practice was rooted in their experiences of internal transformation based on empowerment of RJ philosophy and practice. RJ empowered teachers by providing not only philosophical values but also practical knowledge that allowed Korean educators to take ownership of conflict resolution in classroom. This gave them hope for future Korean education. The practitioners who were interviewed reiterated that it is critical to be aware that not a single RJ program but the powerfulness of RJ spirit which motivate people to experience internal transformation. These empowered educators have in return led the RJ movement through empowering their students and colleagues to engage in RD. In particular, the significance of the educators’ transformation from the inside-out is demonstrated in the reflections of the interviewees who encountered unexpected resistance against RJ approaches in Province B. Because of the failure experience that teachers have encountered in Provincial Office of Education of Province B, teachers worked voluntarily to engage in RJ practice. This became a good example of earning ownership during the RJ movement. In light of this finding, whether school policy alone can help educators to buy in philosophy of RJ is still unknown. This provides an important insight for school policy makers to reflect on when they are going to design and implement restorative school discipline policies in the future.

Another noteworthy point is that while they were empowered to experience transformation at personal and interpersonal levels in the classroom, they became aware of the structural barriers facing the RJ movement. This finding supports the claim that RJ is transformative in that it reaches beyond personal change toward social change (Woolford, 2009). At first, the teachers interviewed started practicing RJ to deal with relational conflicts and interpersonal violence in the classroom but they became aware of structural problems behind, going beyond seeing classroom level problems: bureaucratic and retributive systems and culture. More importantly, they did not allow the structural conditions to define themselves but rather perceived the conditions as changeable and kept moving forward, driven by their internal strength empowered by experiences of internal and interpersonal transformation and community support. This internal strength was the root of their sustainable practice, leading them to go forward to take critical action to transform the system and culture by building solidarity. Even though the educators reveal their structural awareness of school violence through their practice, further research needs to be done on whether their RJ practice could deal with structural root causes of school violence in the country. This is because that if the current RJ practice fails to address the underlying causes of school violence, the RJ movement will not be sustainable. “A significant force for change has been people inside the system who are disillusioned and demoralized by its ineffectiveness and the harm it causes” (Zehr & Towes, 2004, p.216). The RJ movement in Korean education has been driven by teachers inside the educational system by empowering them to work on self-transformation, interpersonal transformation, and structural change, to pursue “social change from the inside out” (Ginwright, 2015, p.10).
REFERENCES


Good Teachers. (2013). Reflections on 3 years of RD. [생활지도의 새로운 패러다임, 회복적 생활교육 3년차를 돌아보다].


Recent research into family violence in PNG’s second city of Lae has revealed disturbing patterns of family violence impacting upon children and their schooling. Whilst many women struggle to cope with physical and psychological abuse, their children risk slipping into crime and drug abuse and sometimes into perpetrating family violence themselves. Despite Melanesia having long standing traditions of restorative approaches to justice, schools predominantly employ punitive responses to student misconduct. Such a punitive response often results in excluding students who are already suffering from multiple family and social problems, thus helping to perpetuate cycles of violence and poverty. This paper presents new empirical data on the experiences of a number of schools that are consciously adopting a different approach, seeking to include rather than exclude problematic students, and to engage the students’ wider support structures to keep them in school. We discuss the motivations behind the individuals spearheading these changes, the challenges they have faced and their successes, even amongst schools located in some of the most violent and socially disadvantaged neighbourhoods.

INTRODUCTION

This chapter has two overarching objectives. The first is to provide insights into the actual and potential use of restorative justice in schools in Papua New Guinea (PNG), a country situated in the South West Pacific and home to approximately 8 million people and over 800 different living languages (Figure 1). This discussion will connect normative developments in restorative justice in the global South with developments in the global North, showing, in particular, how even in educational settings with high levels of violence and absenteeism, and severe resource constraints, restorative approaches that utilise strengths within the school community and the broader public can be fostered and perceived as beneficial. The second objective is more broadly conceptual and seeks to make a case for analysing restorative justice in an explicitly cross-sectoral way; this differs from the more conventional approach of analysing the impact or relevance of restorative justice in relation to one particular domain or sector – education, health, juvenile justice, etc. Instead, our research focusses on the interlinkages between cycles of Family and Sexual Violence (FSV) and children’s education, adopting an inter-sectoral approach to unearthing the possibilities of restorative justice, through linking education and inter-generational transmission of, and disadvantage caused by, FSV. In addition to addressing education-based outcomes, this inter-sectoral approach offers insights into the potential for restorative justice in school settings to help address gender inequality both within schools and in the broader community.
Although the government abolished school fees in 2012, about half of school-aged children remain out of school and the net enrolment rate of 63% is the lowest in the Asia Pacific region.¹ Schools in PNG face a variety of challenges, ranging from insufficient infrastructure - such as lack of piped water or adequate toilet facilities, lack of adequately trained teachers - through to behavioural problems such as bullying, student pregnancies, inter-school fights, drug and alcohol use and school cults.² Our study site is Lae City, in the Morobe Province, PNG’s second largest city (Figure 1). Lae is characterised by significant levels of socio-economic disadvantage and high levels of interpersonal violence, including one of the highest homicide rates in the world (Lakhani & Willman, 2014). In recent years, behavioural challenges amongst students in Lae have spilled out of the school and into the city’s streets, attested to by significant media reporting of school fights between students from various high schools (Bailey, 2017, 2018; Epe, 2015; EM TV, 2017; Gummar, 2012; Hukahu, 2010; Lahoc, 2013; Post Courier, 2017a, 2017b; The National, 2012a, 2013a, 2013b; Tiamu, 2012; Ukaka, 2013).

This context is considerably different from the educational settings in the global North, where much of the literature on restorative justice has been generated. However, PNG is also a context in which relational and informal justice approaches (drawing upon customary traditions, Christianity, creative problem-solving, and alternative dispute resolution (ADR) mechanisms) are an ongoing and central feature in the management of a vast spectrum of social conflict and violence (Dinnen, 1997). Both state actors (schools, police, hospitals, etc.) and non-state actors (NGOs, churches, community leaders, pastors etc.) are working at multiple levels across different sectors to address manifold dimensions of social justice. As formally recognised by PNG’s Secretary of the Department of Justice and Attorney-General in 2015, the fact that PNG is a kinship-based society means that informal elements in society operate as a major resource in informal dispute resolution. This led the Secretary to argue that changing the trend in the “alarming rate of men, women and juveniles ending up in jail” could be achieved “by focussing more on restorative justice and getting communities to assist the criminal justice system.”³

The restorative justice approaches we identify in this chapter are not the standard processes of victim-offender mediation or conferences typically discussed in the literature; rather, they are relatively informal approaches which are seldom consciously referred to as “restorative justice” by those who advocate and use them. Nevertheless, we classify these informal approaches as such because they are based on a restorative ethos of promoting social engagement, of focussing on the problem rather than on the person, of repairing harm and preventing future harm, and on seeking to provide circles of support and inclusion for students rather than pushing to exclude and punish them (Braithwaite, 2002; Zehr, 2002; Morrison, 2007). We agree with Gavrielides⁴ that conceptualising restorative justice as a broad and dynamic ethos provides a more helpful approach than strict process or value-based definitions. In particular, this conceptualisation allows the identification of hybrid and emergent forms of restorative justice, just as we do in this chap-

¹ https://www.unicef.org/png/activities_26979.html
³ https://www.thenational.com.pg/restorative-justice-to-see-decline-in-number-of-offenders/
⁴ https://www.rj4all.info/what-is-restorative-justice
Family violence and poor school attendance and behaviour are linked, both in terms of family violence leading to poor school attendance and problematic behaviour, and in that poor school attendance is directly linked to the inter-generational perpetuation of family violence.

Current official PNG education and behaviour management policies pay insufficient regard to these interlinking issues, and in some respects strengthen the harmful aspects of the linkages through mandatory exclusion policies.

Restorative justice offers an alternative approach to poor school attendance and behaviour that may lessen school exclusions amongst children experiencing FSV in their homes.

Restorative justice within educational settings should also be assessed in terms of its potential to address inter-generational cycles of FSV.

We discuss each of these hypotheses in turn below, drawing upon our fieldwork in Lae that occurred primarily in April 2018, with follow-up interviews during 2018. In particular, we interviewed key actors in five co-educational schools: Table 1 provides a summary of these schools. Combined, these schools have over 6250 enrolled students to 8 counsellors (who also have ongoing full-time teaching responsibilities); on average, this is 1 counsellor to 781 students.

<table>
<thead>
<tr>
<th>Schools Interviewed</th>
<th>Type</th>
<th>Number of enrolled students</th>
<th>Number of counselling staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>School A</td>
<td>Government secondary school.</td>
<td>1700</td>
<td>Three (3) full time teacher/counsellors;</td>
</tr>
<tr>
<td>School B</td>
<td>Government secondary school.</td>
<td>1440</td>
<td>Two (2) full time teacher/counsellors;</td>
</tr>
<tr>
<td>School C</td>
<td>Government primary school.</td>
<td>1800</td>
<td>One (1) teacher/counsellor;</td>
</tr>
<tr>
<td>School D</td>
<td>Formal Catholic agency primary school receiving government funding.</td>
<td>1000+</td>
<td>Two (2) full time teachers/counsellors;</td>
</tr>
<tr>
<td>School E</td>
<td>A non-state, non-formal, Catholic established and supported community-based elementary school.</td>
<td>310</td>
<td>No (0) formal counsellor.</td>
</tr>
</tbody>
</table>

This chapter is based on our interviews with all these schools, in which we examine how they responded to students who faced FSV at home. These interviews were part of a broader project examining family perspectives and responses to the impact of FSV impacts on children’s school attendance, in which we also interviewed other stakeholders in Lae, including group meetings with women and in-depth interviews with seventy-one (71) women. We explored how schools identified such students; what restorative responses and mechanisms they instituted to support students who were experiencing FSV at home; and how these approaches were enabled or hindered by school, provincial and national policies on behaviour management in schools. These schools were chosen on the basis of research that identified them as being sites of experimentation with restorative justice approaches.

As a preliminary matter, it is important to understand PNG’s official state policy towards restorative justice. Restorative justice is almost exclusively discussed in PNG in relation to the justice system. In this regard, the official state policy is the National Law and Justice Policy and Plan of Action: Towards Restorative Justice, first endorsed by the National Executive Council in August 2000. The policy explicitly situates restorative justice in terms of PNG’s traditional/customary justice practices and seeks to recognise and build on existing strengths of prevailing embedded restorative practices. A small number of programs run by the Crime Prevention and Restorative Justice branch of PNG’s Department of Justice and Attorney General implement this policy, thus restorative justice terminology is familiar to those within the justice system.

5 Further details of this research can be found in Kuir-Ayius, Forsyth, Rooney and Aisi (2018) and Aisi, Rooney, Forsyth, Kuir-Ayius (2018).

6 See for example Dinnen (2001a 2001b).
system, although it is likely that there is considerable variance in understandings about what it entails. Restorative justice has typically been construed narrowly by officials within the state justice system, who often conceive of it as an innovation in formal justice practice, such as for alternative dispute resolution or diversion for juveniles.

There are other aspects of the justice system with close parallels to restorative justice principles and processes whilst not being explicitly framed as “restorative.” For instance, the Village Courts, PNG’s lowest level of courts, emphasise mediation and dialogue; they involve the family networks of victims and offenders and have a problem-solving rather than a punitive focus (the enabling legislation provides their objective as the “amicable settlement of disputes”). Restorative justice values and processes also undergird other significant sites of justice in PNG, such as peace-making in the Bougainville civil war and ongoing tribal conflicts; informal dispute settlement in urban and rural areas, including institutions known as “komiti;” and the negotiated criminal surrenders of “raskols” or self-proclaimed criminal youth that engaged in crime and violence in PNG’s urban communities in the 1980s and 1990s. These parallel uses of restorative justice draw strongly from customary traditions of conflict resolution developed in the context of small-scale societies, as well as from Christianity, and at times from restorative justice practices and discourse from the global North. Particularly influential in this regard has been the Peace Foundation Melanesia program; although less active recently, it has trained several hundred mediators and facilitators in restorative justice since 1994 (see Ivoro (2010) for how this training occurs in an urban PNG context). Since 2018, the Salvation Army picked up this initiative and has been conducting restorative justice training in certain provinces. Yet, despite ongoing official recognition of the potential of restorative justice to address justice issues in PNG, to date it has not been meaningfully capitalised upon. PNG’s formal criminal justice system is still primarily defined by an emphasis on incarceration, often involving hard bodily labour, and para-military style policing.

Restorative justice does not explicitly form any official part of PNG’s national educational policies at present, and is not mentioned in the national Behaviour Management Policy (BMP), launched in 2009. Nothing in the national BMP is inconsistent with restorative justice; promisingly, some of the principles are highly congruent. For example, it adopts a rights-based approach that recognises the right to respect, fairness and equality and the right to access counselling and referral services. It also states that corporal punishment is not permitted by the Department of Education and includes a special section outlining the responsibilities of communities, noting that they “form the wider environment for the development of the child.”

Having provided some background information about PNG and its relationship with restorative justice, we now turn to exploring the four hypotheses our chapter is built around, and through these cast some light on the multiple ways in which restorative justice is being informally practised within schools in Lae, and the potentially important role it can play in helping to address FSV.

**THE INTERSECTIONS BETWEEN FSV AND POOR SCHOOL ATTENDANCE AND BEHAVIOUR**

The levels of FSV in PNG are extremely high. In a 2013 survey, the UN reported that eighty percent of ever-partnered men reported having perpetrated physical and/or sexual intimate partner violence in their lifetime (Fulu et al., 2013, p. 2). According to the PNG National Strategy to Prevent and Respond to Gender Based Violence (2016-2025), two out of three women surveyed across four provinces reported experiencing domestic violence, and 30 per cent of women older than 15 years experienced physical or sexual violence by an intimate partner. Gender Based Violence (GBV) has been increasingly recognised as a key development challenge in PNG and is officially acknowledged as having widespread negative impacts on the overall development of the country. As a result, it has been prioritized in the development agenda and is the target of a new strategy launched in 2017. Whilst the GBV strategy gives some recognition to the intersection of FSV and education, noting that lower levels of education are associated with increased risk of a man perpetrating FSV, its discussion of prevention measures is largely restricted to changing gender norms and stereotypes and addressing gender inequality.

Lae is no exception to the high levels of FSV experienced across the country. A study based on the experiences of Médecins Sans Frontières (MSF) in providing treatment to victims of FSV in Lae showed that of the 6860 instances of treatment provided to 5892 patients over the period 2010 – 2013, 61.5% were for intimate partner violence (Lokuge et al., 2016). Building on this problematic statistic, the MSF leadership in Lae forged ground-breaking responses, introducing a Family and Sexual Violence Unit (FSVU) and the Family Support Centre at the hospital. Also motivated by the high levels of FSV, other non-government institutional responses have emerged, such as NGO-run refuge centres and a donor-supported case management centre known as Femili PNG, established in Lae to help victims of FSV navigate various government departments and support centres (Howes, Ilave, & Planna, 2017).

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Previous research by one of our team (Rooney, 2017) unexpectedly identified strong links between FSV and children’s schooling amongst members of an urban settlement in Port Moresby, PNG’s capital city. In this urban community, local and community mediation of disputes frequently involves public discussion of issues. However, in Rooney’s research, she noted that matters related to GBV and FSV were less likely to receive attention, thus reinforcing the difficulties faced by families, and especially women, in resolving FSV within the community, thereby increasing the impact on their children. In this community, a number of local responses had been established directly in response to children displaced from the formal school system as a result of FSV or family related socio-economic hardship. This situation, in which GBV and FSV receive relatively less attention in local conflict resolution processes, as well as the prevalence of children not attending school, prompted the research team to seek to explore the FSV and schooling linkages more deeply in our qualitative research into FSV in Lae. We spent three weeks in Lae interviewing women, both individually and in groups, as well as interviewing other stakeholders such as the police, service providers, and three state schools and two church-run schools. Our interviews focussed on women’s responses to experiences of domestic violence, where women sought out support and how this impacted on their children’s school attendance.

From interviews with 71 women, three key issues stand out. First, when families break down as a result of domestic violence or neglect, the man either leaves the family home or the woman leaves to seek safety. Either way, the mother is often left solely responsible for the children. As a result, she faces severe financial hardship, whilst commonly her children either drop out of school entirely or attend intermittently. In our community meetings, we were told that for the children who dropped out, many turned to drugs and alcohol, early marriages and themselves became violent. Of the 71 women interviewed individually, 29 women (45%) directly related their experiences of FSV with a negative impact on their children’s school attendance. Of these 29 women, 18 said their children had dropped out of school as a result of FSV, and nine that their children were only attending from time to time. Another four said that their children were attending, but were negatively affected.

![Figure 2: Reasons for the negative impact of FSV on children's school attendance (n=31 observed responses from 29 women)](Source: Kuir-Ayius, Forsyth, Rooney and Aisi (2018))

Figure 2 shows financial hardship as the main reason for children dropping out of school. Many women were unable to meet the costs of sending children to school despite the government’s recent tuition fee-free education policies; such costs include various project fees, stationery, uniforms, bus fare and lunch. Many of the children of the women we interviewed had dropped out of school to earn a living through various informal means to generate income to pay the costs for attending school. Other children returned to school only after their parents or family mustered up the necessary funds. Our research also revealed a number of children had stopped attending school because they lost interest in school after having experienced shame, fear, abuse, and trauma and had sought refuge in other homes after episodes of FSV. Even for those children who did continue attending school, they experienced such challenges as lack of motivation or interest in studies, fear, and decreased concentration.

These findings show a strong link between children’s experiences of FSV at home and problems of school attendance, 8

These findings along with other results of our research have been published in Kuir-Ayius, Forsyth, Rooney and Aisi (2018) and Aisi, Rooney, Forsyth, Kuir-Ayius Aisi, (2018).

9 These findings along with other results of our research have been published in Kuir-Ayius, Forsyth, Rooney and Aisi (2018) and Aisi, Rooney, Forsyth, Kuir-Ayius Aisi, (2018).
and further suggest that many behavioural problems at school are likely to have their root cause in FSV experiences at home. These findings are supported by the earlier findings of a 2010 study into student absenteeism in PNG as a whole, that also identified “family problems” as a “major” factor in absenteeism (Paraide, Kippel, Kukari, Agigo, & Irima, 2010)

Of importance too, but beyond the scope of this chapter because currently we have less compelling evidence, is the impact of failing to attend school as a causal factor for children, especially boys, in becoming perpetrators of FSV themselves. However, we do note that elsewhere in PNG there is emerging evidence of the links between men’s childhood trauma and their adult experiences as perpetrators of violence. Defining childhood trauma by four factors – childhood abuse and neglect, physical abuse, sexual abuse and witnessing the abuse of a mother - Fulu et al., (2017) found significant links between men’s and women’s experiences of childhood trauma and their adult experiences of intimate partner violence in PNG. In particular, the study found that men’s experiences of childhood trauma were more likely to be associated with their adult experiences as a perpetrator of intimate partner violence. Childhood trauma as defined by these four factors, and Fulu et. al.’s results, resonate with the situation of FSV as it currently presents in Lae, where children’s school attendance is affected by their experiences of FSV at home. There is also a relevant body of international literature that connects the treatment of children at school, particularly suspension and expulsion, with future use of violence and crime.10

CURRENT PNG POLICIES WITH REGARD TO STUDENT BEHAVIOUR AND EXCLUSION

This section outlines the factors and policies that work to reinforce exclusion from the formal education system as the predominant approach to problematic student behaviour and absenteeism. In the next section, we will contrast this exclusionist approach with incipient restorative approaches that seek to integrate and include into educational settings children and young people who are at risk of becoming marginalised or excluded.

Given the limited number of spaces available to enrol all children, PNG’s education system is based on a system of academic aptitude selection and exclusion, with graduation from primary school to secondary school and onto other educational pathways occurring through selection by academic performance. This progression is assessed through national examinations at several school grade thresholds (see Vulliamy (1987)). Under PNG’s education reforms, national “exit” or selection exams are conducted at the end of primary school (year eight), end of secondary school (year ten), and the end of senior high school (year twelve), after which students’ progress onto the next phase (or follow alternative pathways such as the vocational school or distance education) (NDOE, 2015). At senior levels of high school, students are streamed into various pathways (vocational, tertiary, nursing, teachers college, etc.). Access to vocational schools, distance education or literacy- or skills-based training run by NGOs, churches or privately is limited.

Nationally, 80% of students transit from elementary to primary school, while a lowly 56% transition from grade 8 to into grade 9, with only 45.5% transitioning from grade 10 into grade 11. The completion rate for primary level schooling (up till year 8) is 77% of all children who enrol, 36% for year 10, and 11% for grade 12 (NDOE, 2016, p. 63). Low retention rates see many students drop out of the system even at primary school level and certainly many more students leave well before they complete secondary school.

Historically, the educational system, due in part to structural limitations of space and lack of teaching staff, has been based on excluding students according to academic performance. This policy orientation towards exclusion is also apparent in the national policy on absenteeism and problem behaviour. Ministerial Policy Statement No.2/94 and the Secretary’s Circular 2/94 (Secretary’s Circular 16/97) on prolonged periods of absence from school by students, states that a student who is absent from school for more than 30 working days either continuously or cumulatively in any one school year will not be eligible to sit national examinations and for certification. The policy emphasises that examinations and certification are a national function and provincial education authorities and school boards are to comply with these requirements.

This policy remains an operational guideline for schools in PNG’s educational system to date. This is reflected in a study covering four secondary schools and twelve primary schools in four provinces from each of the four regions of PNG, in which schools were selected to be part of the study based on the challenges they had in student retention and absenteeism. The study found that, whilst most provinces did not have policies on absenteeism, most schools applied the national 30-day policy (Paraide et al., 2010, p. 21). To assist schools to manage student behaviour, the National Department of Education (NODE) introduced the Behavioural Management Policy (BMP) in 2009. According to media reports, schools have also been encouraged to formulate their own behaviour management policies in line with the national standards, and many have done so, including some in Lae (The National, 2013a; 2013b). Relevantly for the discussion below, 7.3.1 of the policy provides that: “Expulsion is the last resort.” Despite the existence of this official stance that

10 See for example: Advancement Project. (2010). Test, punish, and push out: How “zero tolerance” and high-stakes testing funnel youth into the school to-prison pipeline. Washington, DC: Author; RAND ix
appears to stand back from taking an expulsion-focussed approach, every formal school that we interviewed identified an exclusionary policy, one based upon their own understanding of the national policy.\textsuperscript{11}

Given the earlier discussed links between absenteeism and poor behaviour and FSV, it is clear that the default 30-day exclusion policy has the potential to further entrench the disadvantage experienced by students coming from homes in which FSV occurs. Some of the schools simply implement the default exclusion policy without localised finessing. For example, in one school, absences over 31 days or during an assessment period were considered a major offence under the school rules, and students falling foul of this are referred to the disciplinary committee.

Whilst being guided by the 30-day policy, all the schools we researched have been experimenting with ways to address absenteeism and poor behaviour in more inclusionary and restorative ways. In the next section, we examine some of the school responses against the above discussed urban and national policy context.

**RESTORATIVE JUSTICE IN SCHOOLS IN LAE**

Although most of the schools we interviewed did not frame their responses explicitly around restorative justice, all shared a narrative of recent training and approaches that resonate with restorative justice and reveal an increasing emphasis on instituting counsellors in schools as a result of the BMP. Most of the schools we interviewed emphasised Christian principles or support for training in basic counselling skills. These approaches were significant in enabling interventions that led towards more restorative approaches in managing student behaviour.

As we noted above, against a background of city law and order problems, and serious social issues, another major motivational factor for schools to take restorative approaches seems to have been the high numbers of inter-school fights that have drawn both significant national media coverage and responses from national and provincial leaders. It has been recognised in some schools that countering such fights really requires building up the students’ sense of community, mutual responsibility, and fostering of Christian principles in mediation and reconciliation processes (See Sugoho\textsuperscript{2014} for a discussion).\textsuperscript{2014}

For example, one of the schools we interviewed was reported in the newspapers in 2010 as having achieved some success in stemming the cycle of violence: According to this news report:

[Busu secondary school had] managed to get its students off the streets for two consecutive years [since 2010] because they repeatedly had meetings to remind them of their educational goals throughout the year.

Different church denominations and stakeholder groups like Correctional Services had been invited to speak to students there on the downside of crime and bad behaviour during the meetings.

The community around [the school] had supported students and helped diffuse situations that could have led to fights.

“We (school management and teachers) continually talk to our students to try to make them change their mindset and way of looking at these problems,” [The then principle said].

The 1,122 Grades 9 and 11 students are encouraged to fight using their brains rather than their hands.

“We can come up with all kinds of reasons why school conflicts are continuing but it all boils down to whether individual students want change for themselves.”

“Only then can the fights stop,” [The then Principal] said.

Students had remained firm in the motto, “on Busu, no groupings”.

Busu believes that schools should be able to find ways of putting an end to cult practices and inter-school disputes without necessarily having to call the police in.

[The then Principal] said police should only be asked to help if criminal matters arose but overall it was up to school managements, stakeholders, parents and the provincial education board to take strong and decisive action.

(The National, 2012b)

\textsuperscript{11} There is little ethnographic work in this space, but a good exception to this is Oakeshott’s work in Bougainville: Vernacularising child rights in Melanesian secondary schools: implications for transitional justice (forthcoming). He notes both a normalisation of violence within the schools he studied and also the impacts of Marist philosophy and to a lesser extent Child Rights discourses in attenuating violent and punitive responses.
When we interviewed the school in 2018, the school staff still referred to the “one Busu, no groupings” motto and a permanently installed plaque is at the front of the school (Figure 3).

Figure 3: Permanent plaque outside Busu secondary school reminding school community about the “One Busu - No Groupings” motto. (Source: Michelle N Rooney, April 2018).

Other media articles report on cycles of school fights and reconciliation ceremonies between Lae secondary schools that involve church representatives, school leaders and emphasised Christian-based principles. (Post Courier, 2017; The National, 2017; Tiamu, 2012). As discussed briefly above, these cycles of violence and reconciliation and mediation and community-based and relational approaches are a common feature of PNG customary and community social order, documented by many scholars (Dinnen, 1997).

It is within this broader context of city-wide concerns about school violence and the attempts to stem the cycles of school violence that the schools we interviewed were also responding to students affected by FSV. The impact of FSV on students was mentioned a few times as being relevant to the more restorative “turn”. For example, in one Catholic school, teachers told us that the experiences they had encountered in their school with children confronting FSV at home, had shaped their school policy.

They noted that:

We have been encountering such issues so we come up with some measures so we can counter and minimize this kind of issues. In the past we Catholic teachers had in-service training organised by the church who organised and gave us workshops for tackling social issues and we get training on how to deal with students’ welfare in such cases. One particular workshop was on restorative practices and social justice. That is how we got those strategies and we try to practice them in our teaching. For example, conferencing with victims and offenders. We learn about consequences that happen and as teachers how we should react. We have done a bit of implementation but not really. (School D)

In another school, the counsellor we interviewed noted that only a few weeks earlier, they had attended a two-day provincial training workshop on trauma counselling based on which they had formed a group that involves both counselling and the Provincial Government. The workshop aimed:
We were later advised by the official who helped to organise the training that it was part of trauma counselling training being instituted under the provincial education reforms programme. The workshop resulted in the establishment of a provincial trauma counselling committee that in spirit has support from the Governor of the province. One of the aims of the committee was to support school responses to students experiencing FSV at home. However, the operational issues are left to the schools to sort out. In another example, one teacher in School C noted that the school counsellor had been transferred out and the school no longer had a counsellor, but emphasized the ongoing need for a permanent counsellor to provide counselling full time. He stated, “at the moment we are engaging a pastor who is part of the local community to teach religious instructions while also doing counselling. It is in the process and he will take responsibility by next week. He will teach the word of God and at same time do counselling.” (School A)

Another teacher observed that: “As teachers we [are] helping in the process of counselling and in relation to FSV, especially with kids because I have taught in Catholic school. This is my second year of teaching in this government school. With programs in our agency (Catholic) schools all teachers have a basic training in counselling.”

These interview responses suggest that there is an emerging restorative justice narrative in sections within the Lae community, including within school communities. In this context, restorative justice emphasises the relational and social aspects of engagement between the student and others in their lives, with behaviour being seen as an indicator of need (Evans & Lester, 2013). There is little evidence of the “classic” use of restorative justice to deal with an incident between a perpetrator and a victim. However, a restorative approach to absenteeism, for example, would see it as an indicator of ongoing issues that need to be dealt with, and as an indicator of broader social fragility of the student and of the wider community. We associate a restorative approach with the multiple and creative ways in which schools, individual teachers, and the wider community respond to students experiencing problems at school due to FSV, particularly through building “education communities” around the student. These creative approaches provide a safety net for students who remain in school, as well as for students who have already dropped out of school.

In all the schools we researched, innovative restorative approaches were emerging, and these were particularly relevant to problematic student absenteeism behaviour linked to FSV. It was also evident in the three government schools we researched, as with the “formally” registered Catholic school, that the BPM and the 30-day exclusion policy were important in shaping how to address students’ behaviour in school. As such, student behaviour, and in particular, their absence as a result of FSV at home, tended to be initially viewed from a behaviour management or curriculum perspective. However, each school, once it had been determined that the child was experiencing problems at home, had devised and innovated processes for responding to support the students. In the following case studies, we look at the restorative aspects of the approaches adopted, what has driven them, and provide examples of some of the impacts they are having.

**Case study 1 - Secondary school A:** In this case study we interviewed the school counsellor, who narrated a transformative process personally and institutionally within the school. She noted that her school was part of the first group of teachers given counselling training in 2015. The training was over three weeks and was run through a partnership between a church organisation, the national government, and a donor funded program. Since that first training they have received several refresher training sessions. The provincial education guidance officer, who is responsible for supporting schools in the province, liaised with schools to identify teachers interested in or available to receive the training.

Reflecting the wider Lae context described above, the counsellor told us that the training focussed on counselling and was a response to persistent school fights and problems.

In this school, she described a process where restorative approaches in the school are largely driven by the school’s counsellors and peer supporters (head boys and head girls). Both counsellors and peer supporters proactively seek opportunities to dialogue with the students in order to discover more about their home situation and to offer tailored support. In some cases, this may be the peer supporters inviting the student to their own homes to escape episodes of violence, or sharing food or even money. As a formal staff member of the school, the counsellor uses her position to advocate on behalf of such students against the operation of exclusionary approaches that might otherwise be adopted by the administrative arm of the school. To provide financial support to students who need help, she sells items in the school and keeps the money in her office, from which she draws on to help students. She also acknowledged the peer support between students in the school. She noted:

> We do have some very good students in the school. When they know that their best friend is, you know, facing
some problems, they just take them on like they talk to their parents to see if they can help. There are some very understanding parents who would allow another child to come and live with them and they became their guardian. Or they share things like bus fare and lunch. Generally, the students here are good. Like when they see that someone is sitting by himself or herself during lunch or recess, they approach them and try to find out why. And then among themselves they encourage each other. There is a good support system among the students. Sometimes some of the brave ones come and tell the teachers that a student is going through such and such a problem. (School A)

The counsellor uses school forums to advocate to students to make use of the counselling services, noting that:

When we have assemblies and patron meetings, I also mention to the students that when they have issues, they must come for counselling because if they don’t come for counselling and then they get themselves into trouble, then my hands are tied. If it’s a disciplinary issue, then it’s disciplinary now. So, before they face their disciplinary issue, if they have personal issues they are trying to deal with, and they need help, then if it is something, I can assist them with or I can refer them to a specialist, then I will do that. (School A)

One example of the impact of a counsellor acting in a restorative way to avoid the imposition of the exclusionary 30-day policy is as follows:

One student in year 12, his final year of secondary school, was faced with ongoing family problems. His parents were not getting on well and his mother left the family the previous year because of FSV. The school has been trying to get the student’s mother to contact Femili PNG because of the violence she experienced and the father’s affair with another woman.

At the beginning of the current year, his father decided that he no longer wanted anything to do with the three sons. As a result, his father had not paid the project fees for him.

Because of this family situation, the year 12 student had to act as a de facto parent his two younger boys, in year 7 and year 8, trying to enrol them and sort their fees at the start of the year. When he had no bus fare, he did not attend school. Because the father did not give him anything at all, he wanted to look for after school hours work so he came and told the counsellor, and she counselled against doing that as it would make him tired. Instead, she suggested that he start selling some things after school to sustain him and his two younger brothers. The previous week he had come to see her and told her that last term he made a total profit of K200 from his sales. He was now trying to partner with another student to sell sweets and chocolates in class and during recess. They live a way out so the bus fare is around K1 each way. The father sometimes provides food so when they have something to eat and if he manages to find his bus fare he comes to school.

At this point, he had already accumulated 15 days of absences so the deputy principal for administration spoke to him and reminded him that once he reached 30 days of absence under the national policy, this is like “self-termination.” He was worried, he came and saw the counsellor who advised him that although the school was aware of his situation, he needed to make every effort to come to school. He returned to see her last week and mentioned that the family now faced an eviction notice from the landowner where they were living. By this time the boy had almost given up and said, “ok I’m done now. I don’t think my father will take me on.”

At the same time, he had not been getting along with his father since the mother left in February. When he came to see the counsellor, she encouraged him to take a proactive in his approach to his father. The counsellor tried to ascertain whether the student was trying to bridge the gap with his father or whether he was distancing himself from the father, which may have caused the father to react that way. She noted that, “I wanted to try to establish this so I told him maybe you should speak nicely to your father. Try to talk to him. If he is doing something at home, ask if you can help. Take interest in what your father is doing around the house. That might help. That was last Tuesday we spoke. And then he went home and on Wednesday morning the father said, “Do you need some bus fare?” And the kid just looked at the bus fare and smiled and said, “yes”. After we met, I informed the student that I would see the deputy principal for administration and we would communicate with the father regarding his absences. I told him, that I will let the deputy principal speak to his father because he is a man and can talk to the father on the man’s level and he can mention the reason why you don’t come to school is because of bus fare. We will leave it like that and let him think about it. (School A)

Although she was not clear what transpired between the deputy principal and the student’s father, her approach considered multiple interventions and resulted in a positive outcome on that occasion. It shows that in order to be effective, it is not sufficient to merely focus on the student: the counsellor in fact intervened to support communication with the student’s father, sought to support the mother through referring her to support from the FSV case management service (Femili PNG), and brought the matter to the attention of the deputy principal responsible for implementing
the 30-day absence policy. In this case, as in many others, the counsellor used her personal connections with counselling service providers and other institutions in the city to create a network of support for students and teachers. This counsellor also accompanies the students while they receive their support. She notes that she is providing case management within the school in many ways, whilst Femili PNG offers external case management support. She notes:

So, I’m trying to also network with other stakeholders like the hospital and others to bring all these support services that are around the city to come and speak to the students. I hope that as they speak to the students, students probably get that information and where the mothers are abused at home, at least the students also know or they have information to give to their mothers especially. (Counsellor, School A, Lae, Morobe Province, April 2018)

This counsellor also spoke of how her experience had transformed her own approach to teaching - from a punitive traditional teaching style towards a more restorative justice approach towards her students. However, as she noted, this transformative process also comes with challenges:

It is a bit challenge but you know, I teach and I am tough on students in the classroom. I get on them if they don’t do their work and you know outside when they are not doing things I support (misbehaving). But the last four years after helping students with counselling, I have changed in that area. I don’t scream at students now. I have also broadened my knowledge on all these areas. Because sometimes students do things, I observe that they have issues so they probably want our attention or they are looking at other ways that they can get our attention. Sometimes we don’t know it. As teachers we scream at them and we are just adding more fuel. I always get on teachers during staff meetings. Please don’t scream at students. If you see a group of students standing there just go speak to them nicely and find out why they are there. What their agenda is. They will tell you. If they really have nothing and they are just standing there they will walk away. But when we scream at them sometimes some students they will react, and then they will cause problems with us. My approach now is different. And most of my friends now have realised. (Counsellor, School A, Lae, Morobe Province, PNG, April 2018)

**Case study 2 - Secondary school B:** This case study highlights the kinds of support provided to students at risk of falling out of school as a result of financial hardship arising from experiencing FSV. As we noted above, one of the key reasons why students drop out of school when they experience FSV at home is because their families, especially their mothers, face severe financial hardship. Therefore, this practical support is an essential supplement to other restorative responses, and involves finding community-based and relational solutions to ensure at-risk students can be included within educational settings. The Principal of Secondary school B noted that most of the cases of absenteeism in the school related to financial hardship, such as the student’s inability to afford the bus fare for transport to school, lunch money or students’ families being unable to pay the school fees. School B’s principal also has a strong emphasis on church approaches. He conducts a fellowship twice a week with staff and boarders and emphases leading by example and sharing personal stories that can be used to counsel students. Secondary school B has instituted a number of responses with specific reference to student absences to overcome the 30-day exclusion policy. The focus is on students who are vulnerable to missing out on key formal educational milestones, such as the national exams that determine a student’s future educational pathway. To provide financial assistance to students, every day the principal collects K1 from the “market mothers”, comprising groups of mothers or women who come to the school grounds to sell food during recess and lunchtimes. The principal collects K1 from each vendor at recess then again at lunch. In this way, he may collect between K12 and up to K30 per day. He keeps these funds in his office and refers to them as “market mothers” money. These funds are a key mechanism in supporting students and this support has a particularly gendered dimension in this school.

Another response unique to this Secondary school B is that it has dormitories historically used to house female boarders coming from rural areas in the Morobe province. However, as new schools have been built in rural areas, the school’s boarding facilities have enabled it to respond to student absenteeism and behavioural problems. In 2018, the school had 167 female boarders, of whom most were still from rural areas. However, around one third of them came from disadvantaged communities in the city where conditions were not conducive to undertaking study or come from families that are experiencing FSV-related problems. The school prioritised taking students who were vulnerable to exclusion when they were due to sit the external national exams. Thus, students in years 10 and 12 are prioritised, to enable them to study unimpeded by stress.

The principal of the school described the following example:

One student arrived late and I was really angry with her so I closed the gate. I don’t know how she got inside but she must have jumped over the fence and came inside. When I got angry, she was really crying so I tapped on her shoulder and said, “come to my office”. She came to my office and sat there but could not say anything. Maybe because I was from another country or I am a man. So I got a female teacher to speak to her. Eventually, she told us that she had walked all the way from Nadzab – some forty kilometres from the school. She could
not walk properly and was really sweating. She just cried. She told the teacher that her father had left without paying her school fees. She had no funds and had walked all the way because she had no bus fare. She had not eaten and was feeling dizzy and had been trying to drink water from the school fountain when she arrived when the principal and scolded her for being late for school. The principal told her he was sorry, and took some money from the “market mothers” collection and gave her enough for her to return home and some extra to bring her mother back with her. When she returned with her mother, he spoke with her mother and asked the mother if she could be a boarder and she was then accommodated in the school. (Principal, Secondary School B, Lae, Morobe Province, PNG, April 2018).

Although there were no boarding facilities for boys, boys affected by FSV were supported through being offered odd jobs in the school, such as cutting the grass or cleaning; or by assisting them with meals. The boys are paid from the “market mothers” collection. The school also has two counsellors with full-time teaching responsibilities. The school has a referral pathway from teachers, to counsellors, to the school administration, and then on to the school board if the matter is not able to be dealt with within the school.

Case study 3 - Elementary school E: School E is an elementary school recently established by the Catholic church in a particularly notorious neighbourhood known as “Back Road.” When we visited, we were told that previously this neighbourhood had been regarded by many in the city and in authority as a “no go zone,” and it housed many children whose parents made a living scavenging from the nearby tip, which resulted in them being made unwelcome in neighbouring schools. The area is characterised by high levels of FSV compounded by drug and alcohol consumption. The teachers we interviewed drew strong connections between children’s experiences of FSV at home and their behaviour at school, particularly noting their tendency towards violence. They identified a number of factors that encouraged violent responses, such as some children not being fed by their parents (who are too busy fighting) before attending school, which contributed to impulsive reactions from the children. Some children also live with guardians who may not be related to them, often as a result of FSV and family breakdown. The precarity of their lives is illustrated by the following quote in which a teacher describes a grandfather who is the guardian of one of her students.

He collects plastic (bags) from the rubbish dump, washes them and sell to people; although the father of his grand-children (his son) is a primary school teacher in another school. The mother of this child has moved on and does not support her child in any way (School E).

The teachers observed that when these children are confronted or bothered by other children, they sometimes react by being physically aggressive towards other students. The teachers noted that the children are verbally corrected on the spot by teachers directly after the initial occurrence of violent behaviour, but they are not treated in a punitive way. Any violent behaviour demonstrated by the child afterwards requires calling in the parents or guardians of the concerned child to the school to have a discussion about the child’s behaviour and to discuss how to address it as a group. However, it is common for parents and guardians to ignore the school’s request, leaving the school to deal with students’ difficult behaviour. Teachers are then under pressure to look for alternatives to assist or deal with problem children. Some use counselling and role play to assist children to build positive behaviour and focus on their learning. Teachers use Bible verses to assist children in developing positive habits on anti-violent behaviour towards other children, and to assist children in understanding the positive change that is revealed when role playing positive behaviour.

For example, the story of the “Good Samaritan” in the Christian Bible was explained as assisting a child to understand the importance of focussing on his learning and to be good to other children. The use of Christian principles in advancing restorative agendas has also been written about by Oakeshott in the context of schools in Bougainville (Oakeshott forthcoming). The teachers made it clear, however, that the restorative approach is used in an inconsistent manner and is at risk of being overtaken by frustrated and under-resourced teachers, who have used corporal punishment and verbally demean children.

Overall, this school stood out in our research as being one that is situated in layer upon layer of disadvantage and violence, and yet some teachers consciously aimed towards a non-violent and restorative approach towards student behaviour. As the school is deeply embedded within a particular community, such modelling of the building of communities of care and focussing on behaviour as the problem rather than the person, may inspire not just students but also broader members of the community.

Other restorative approaches identified in the research: In addition to these school case studies, our research has identified a number of other restorative justice mechanisms that have been used in the context of managing a range of school-related issues, including responding to children at risk of exclusion as a result of FSV.

For example, the Catholic schools use their networks of schools to arrange “twinning arrangements” between schools to provide support to students at risk or in need of support. In one case provided by staff of School D, a year 8 student of another school was being sexually abused by her uncle at home. The principal and the deputy head teacher of the other school came over and asked the principal of School D if they could enrol the child in school D and have the staff help take of her because her external exams were due in two weeks’ time. The two schools and the student’s family facilitated her move into boarding facilities at a local refuge centre for victims of violence and her enrolment was trans-
ferred into school D. The refuge centre picked her and dropped her at school until she was able to sit the exams and graduate. The student was able to complete her year 8 external national exams while the uncle was restrained by the police. This support was possible because of the network of “sister” or “twinned” Catholic agency schools.

Restorative justice in the context of school fights: As noted above, inter-school fights have been a significant issue in Lae in recent years. Some fights have been resolved using restorative justice approaches, such as reconciliation ceremonies, and pledges on the part of students and peace-making ceremonies (for example Tiamo, 2012; Post Courier, 2017). The BMP and its emphasis on counselling is an important mechanism for supporting students caught up in school fights as an alternative to exclusion or other punitive approaches. For example, the principal of Secondary school B told us that in one case a student was involved in school fights and cults in which he tried to instigate fights with boys outside of the school, so he was suspended by the school administration as this was regarded as a disciplinary case. However, the school board noted that in fact, this was a situation of the boy having a problem at home because his parents were separated and the family had been broken and were situated all over the place. The board referred the student to the Provincial Counsellor for counselling. The student was required to attend a counselling session at the provincial counsellor’s office over a period of time and after being allowed back into the school the following year, successfully completed his schooling.

RESTORATIVE JUSTICE IN SCHOOLS AND ADDRESSING FSV

Our preliminary research and the above examples support grounds for connecting children’s experiences of FSV and school absenteeism and problematic behaviour, as well as a less strong yet emerging case for school exclusion being a contributing factor to children becoming perpetrators of FSV themselves.

Given the significant levels of FSV in PNG and its catastrophic impact upon the wellbeing of PNG’s women and children, and the country’s overall development, we argue that encouraging greater use of restorative justice approaches within schools could be a fruitful avenue to explore in seeking to at least halt the intergenerational cycle of FSV. We see restorative justice in schools as having the following possible benefits in the context of Lae (and PNG as a whole):

- It can build relationships and circles of support that are critical in supporting children through schooling when their own family has broken down due to violence. Education is the greatest chance most children in PNG have to escape endemic cycles of poverty, disadvantage and violence.

- It may provide an alternative set of mechanisms to the exclusionary emphasis in school behaviour policies that will inevitably result in students from homes affected by FSV being disproportionately excluded from continuing their schooling (and hence more likely to turn to drugs, crime and violence (including FSV)).

- It teaches and models for students and their families the importance of respectful dialogue rather than the more usual approaches of blaming, shaming and punishing in addressing problems, and models the process of building strong relationships and communities of care. These are lifelong skills that are important in managing inter-personal conflict in non-violent ways.

Embedding restorative justice within schools in PNG is a strategically sensible place to start a broader policy of greater use of restorative justice more broadly. Schools are one of the most respected institutions in PNG today, retaining levels of authority and legitimacy that many state institutions, including the police, do not possess. They are also sites that have the pedagogical capacity to teach respectful and dialogue-based approaches to resolving conflict through embedding these into the operation of the school, ideally in the whole-of-school approach that the literature suggests is most effective (Morrison, 2007).

CHALLENGES TO RESTORATIVE JUSTICE APPROACHES IN SCHOOLS IN PNG

As is evident in the data we have presented in this chapter, the approaches being used by schools in Lae suggest that a nascent narrative of restorative justice approaches exists. While there are advantages for advancing a restorative justice approach in Lae schools, any introduction to a “classic” restorative justice approach would have to be considered in light of the current approaches, some of which we have outlined in this chapter, which have been developed within the relevant cultural and social context.

Our research suggests that there are also some real obstacles in advancing restorative justice in schools in PNG. In particular, given the broader city crime, school fights, and FSV situation in Lae, it is evident that there is a tension between restorative justice approaches involving the kind of support and counselling approaches described above and
the important need to establish enforceable discipline within and beyond the school boundaries.

With respect to enforceable discipline, there is a real danger that if the existing high levels of violence in schools persist, the response becomes increasingly punitive. This is illustrated by recent public debates around the treatment of school fights in which there have been calls made for more punitive responses. In 2017, the media reported that the Chairman of the Provincial Education Board Morobe, and the Provincial minister for education came out and reportedly condemned the fights and recommended they be made criminal offences. In the same report, the Chief Metropolitan Superintendent for Lae also reportedly condemned the fights, allegedly saying that mass arrests would be made of all students involved in fights. (EM TV 2017). This punitive approach is already applied in some schools, with strict rules about absenteeism as well as behaviour, including zero tolerance messages. For example, the sign board in Figure 3 is a prominent feature at the entrance on this school.

![Image](http://example.com/image1.png)

**Figure 4: Sign board installed on class room at the entrance of a school. (Source: Michelle N Rooney, April 2018)**

With respect to support and counselling, in all the above cases, limited resourcing means that teachers are appointed as school counsellors based on whatever available training they receive and have to balance this responsibility with their ongoing full-time teaching load. This constrains their ability to see students who need support.

In the examples given in this chapter, all demonstrate elements of this tension between the counselling and the disciplinary role of schools. The following example illustrates the kind of challenges faced in schools with large student populations when teachers have to weigh their counselling roles with full time teaching responsibilities:

**Counsellor from School A:**

Personally, it’s a very challenging job. Like sometimes I feel that maybe I am out teaching and the students are coming for counselling and then like I’m not there. And then they probably go and don’t come back. [...]

We do have counselling rooms. There are two. One for males and one for females. Most times I am in my office but we might have to have consultation times with them in these rooms.

With counselling, students might just want to walk in any time. So, if and when there is a need for them to come and see us, we must be available. But now that there are three of us at this school and I think that we might be ok in reaching out to the students. But with the case of other schools, like especially primary schools, because they are full time teachers and they stay with one class. And it’s really difficult for students from other classes to come and see them (School A)

Another challenge for teachers with counselling roles relates to students’ perceptions of them as a disciplinarian. This is can be seen in the case studies outlined above in which counsellors must balance their support for the student with the school rules, departmental policies, and administrative rules of the school administration.

Moreover, within schools the support and counselling roles and the administrative and disciplinary roles are administratively separate. With counsellors as a relatively new introduction to the school institutional structure, the above
cases show how the training, and the dual roles that counsellors still occupy, provide an added new role to schools. As such, in many schools, the school administration administers disciplinary issues, while counsellors offer the BMP-required policy. When issues cannot be handled by the teaching staff, counsellors, or school management, they are brought to the attention of the school board.

This overlap, and at the same time separation, between discipline and counselling will evolve if and as schools adapt to strengthening the counselling support provided in their schools. At this stage, it is likely that this evolution will be left to schools to operationalise, something we can already see from the examples given above that showed how schools have been adapting training or policies to fit their own school’s context. The tension between the disciplinary role of the school administration and counselling of students who are exhibiting behavioural problems is reflected in other schools’ experiences and suggests a key area of potential “push back” against more supportive, counselling or classic restorative justice approaches, often influenced by the broader issues around crime and violence and ongoing school fights in the city.

For many schools, counsellors do not have access to attendance records, so they are unable to pick up students at risk by looking at their attendance records. They are only able to intervene when a student seeks support from them. Thus, we suggest that better communication between the counselling and administration would assist. For example:

With regard to attendance records, the deputy principal administration keeps all the reports of all the returns monthly he collects every month. I wanted him to give me information about absences because with academic counselling we could try to see if maybe the student’s absence is affecting their performance. And then we can see if similar story with a few students we can try to provide support students who are not attending school.
(School A)

These challenges, involving operationalising of supporting and counselling processes, or possibly classic restorative justice, are likely to remain because of the limited resources that most schools have.

CONCLUSION

This chapter has identified the potentially powerful insights generated by adopting an inter-sectoral approach to analysing restorative justice initiatives. We have argued that poor student behaviour, particularly absenteeism, is strongly linked to FSV in many (but of course not all) cases in PNG.

Restorative justice, defined broadly, offers an alternative to the existing de facto punitive exclusionary approach, which does not take into account these interlinkages. In contrast, approaches informed by restorative values view the student as embedded within relationships that are both impacting negatively upon their behaviour, and have the potential to offer alternative sources of support. Viewing restorative justice through this inter-sectoral lens is useful both because it draws attention to its impact across multiple domains, and highlights the interconnections that must be made visible in order to effectively address ongoing cycles of FSV.

This insight is not only relevant to PNG but applies more broadly to policymakers and practitioners in other parts of the global South as well as in the global North. It demonstrates the clear importance of moving out of a siloed approach to understanding both the value, and the application, of restorative justice, indicating how strengthening restorative approaches in schools can have follow-on impacts on societal problems such as FSV.

The chapter has also drawn on new empirical evidence to outline for the first time a range of restorative initiatives within schools in Lae that signal a nascent but emerging narrative that resonates with restorative justice. We characterise these initiatives as restorative because they involve problem solving, inclusion, dialogue, respect, participation, prevention and actively engaging in relational networks of support. They involve such innovations as enrolling peer support, provision of practical support such as twinning programs and enabling modest income generation for students, as well as reaching out to broader support networks outside the school to which students and members of their family can be linked, upon the realisation that the student’s family unit needs support in order for them to succeed at school. As a contribution to the emerging comparative literature in this space, the empirical research findings presented here demonstrate the power and drive of school communities to act restoratively through drawing on relational resources, even in the absence of any explicit restorative justice programs or training. We propose that this indicates that the starting point of developing any new restorative justice programs should always begin by enquiring into the existence of functional restorative practices already occurring, or unearthing how a restorative ethos is being manifested, and finding ways to strengthen this existing ethos, rather than focussing on the need to develop or introduce particular forms of restorative justice.
The drivers of the more restorative approach in Lae seem to have been a less punitive BMP, particularly one that has supported larger numbers of school counsellors, and also the active participation of different church groups. In a few cases, the “classic” restorative justice processes such as group conferencing, have been used to deal with major issues such as school fights, but these appear highly sporadic and seem to have been driven more by attempts to utilise customary ways of resolving conflicts that appeal to group relationships, restoration of relationships through compensation and agreements about future behaviour.

In conclusion, we see potential for restorative justice to play a far larger role in schools in PNG, both in regard to student behaviour, but also in relation to relationships at the school and between the school and families and community more broadly. As we noted in our introduction, this inter-sectoral approach also highlights the potential that the use of restorative justice approaches in schools can have on addressing the widespread gender imbalance in PNG society more broadly and in school settings. It also lends support to Zarriga’s (2010) argument that there is potential to use restorative justice approaches in community development in PNG. However, the more transformative potential of restorative justice in regard to re-structuring gender relations that is beginning to be utilised in schools and secondary institutions in the Global North has yet to even be touched in PNG (For example Llewellyn, Macisaac & Mackay, 2015). In the Lae context, restorative justice approaches can be a powerful approach to achieve the behavioural change required to break the cycles of violence like FSV and school fights. Schools, as key sites of learning, are a critical place to start this journey. It is, however, important that the role of restorative justice in this context is adapted to, complements, and learns from the ongoing and evolving context of Lae schools’ socially and culturally grounded responses to student behaviour management.

NOTES:

1. This research was funded by the Australian Government, Department for Foreign Affairs and Trade through a partnership project between the Australian National University and the University of Papua New Guinea.

2. In order to have clarity in the flow of the text, the words we have used as quotations and case studies by research participants have been summarised or paraphrased from interview transcripts.

3. We acknowledge and thank all members of the Lae community who assisted us in this research.
REFERENCES


ABSTRACT

Restorative practices (RP) were first piloted in Singapore schools in 2005 with the hope of developing restorative schools using a whole school approach. The success of creating restorative schools seems like a far fetch idea in view of the slow growth in adopting it as a good practice. Starting as a behaviour management tool in schools, renewed efforts by schools in adopting RP give hope in recent times in building restorative schools. This paper firstly highlights the concept of restorative justice (RJ) and its relation to criminal justice in Singapore. It then describes the use of RP in several schools in the country. The paper seeks to document possible reasons for the lack of prevalence in accepting restorative philosophy as well as adopting RP through literature review and anecdotal evidences.

INTRODUCTION

Singapore is an island nation situated near the equator with a land area slightly more than 3.5 times of Washington D.C. As a trade hub in South East Asia, the city-state’s gross domestic product (GDP) multiplied almost three folds the last two decades (Singstats, 2018a). Singapore is also a multi-racial and multi-religious country with an ethnic composition of about 74.3% Chinese, 13.4% Malays, 9% Indians and 3% from other ethnicities (Singstats, 2018b). As a former British colony, English language is one of the four official languages in addition to Mandarin, Malay and Tamil. To reinforce the student’s cultural identity and to connect with the global community, Singapore’s education bilingual policy requires students to learn English and a Mother Tongue language. Students typically undergo six years of primary education, 4 to 5 years of secondary education, followed by post-secondary education (Singstats, 2017). Singapore students topped the Programme for International Student Assessment (PISA) in 2015 for international education rankings in mathematics, reading and science.

This chapter will first provide a brief overview of RJ in Singapore’s youth justice system and social services before introducing the development of RJ’s philosophy and practices in Government schools (hereby schools) in Singapore. Secondly, it attempts to examine whether RJ has been successfully implemented in schools, and the possible reasons for its lack of prevalence since its introduction in 2005. Thirdly, experiences of staff and teachers from the three schools are used to aid our understanding of possible challenges experienced by schools which had adopted RP as a whole-of-school approach. Lastly, recommendations are provided based on good practices gathered from the three schools and literature review.

The limitations of this present study stem from limited access to information on Singapore schools on their use of RP, and its heavy reliance on anecdotal evidences. For the purpose of easy reference, the RJ terminologies related to criminal justice system used in this chapter such as “restorative justice”, “crime”, “offenders” are replaced by similar terms such as “restorative practice”, “students who caused harm”, “students who have been harmed”, or “wrongdoer” when describing RJ in schools, when suitable (see Morrison, 2007).

In sum, this chapter provides a non-philosophical review of application
models of RJ in the educational setting in one of the modernised countries of South East Asia – Singapore. Among other Asian book chapters of this book, it represents a timely addition to the growing literature of RJ that provides a bridge between East and West. In addition to addressing successfully factors for implementing RP, the recommendations provided in this chapter offer insights into the potential for other countries to develop their own RJ model in schools in Asia.

GROWING POPULARITY OF RESTORATIVE JUSTICE

Disciplinary welfare strategies to rehabilitate young offenders had failed in the 1970s around the world (Gelsthorpe & Morris, 1994). The negative effects of institutionalisation had led to a trend to deinstitutionalise youth offenders through diversion from the juvenile justice system and the strengthening of families and communities (Cohen, 1988; Maxwell & Morris, 1993). In the 1990s, RJ had developed in Western countries as an alternative approach to working with youth offenders. The growth of RJ was spurred by the growing recognition of youth’s development, rights and empowerment, together with an awareness of the inadequacies of a punitive and retributive juvenile justice system (Maxwell, Lo, & Wong, 2005). Ideas on repairing harm, relationships and the forgiveness of offenders were expounded by scholars together with policy changes such as the rights of children in the United Nations Convention on the Rights of the Child (UNCROC) in 1989 (Maxwell et al., 2005). With the growing popularity of RJ, scholars have also found an extensive use of the term “restorative justice” to describe formal and informal practices in various settings ranging from the criminal justice system to organisational and educational institutions (Miers et al., 2001).

Having varied definitions in RJ, scholars identified three theoretical conceptions, namely, encounter, reparative and transformative, to help define it (Johnstone & Van Ness, 2007). An encounter is a restorative process to engage the victim-offender to meet up to “explore facts, feelings and resolutions” and for victims to express their feelings and to tell their stories (Zehr, 2002). Encounter also provides a means for offenders to empathise and comprehend the impact of their actions on the victims. During encounters, offenders can offer to make reparation through an apology, provide a service, pledge to change, learn a life skill, make material compensation, or amend the relationship through other right actions to earn some dignity and shed some guilt (Leonard, 2010; Radzik, 2007). However, if the victim and or or offender is unwilling to meet face-to-face due to the nature of the incident, exchange through letters, videos or representation by their stakeholders may present on their behalf (Raye & Warner Roberts, 2007). Lastly, the transformative process seeks to address relationships across different levels of society by focusing on the inter-connectedness and worth of all people, and their needs (Sullivan & Tiftt, 2001).

Though RJ does not have an agreed definition, it is guided by values and principles in its practice (Leonard, 2010). Pranis (2007) suggested 2 types of values. Process values are those that guide the design and implementation of the restorative process, while individual values are those which we bring out from the best self of others such as respect, honesty and responsibility taking. Complementary to values, principles are guidelines to establish ethical RJ practice to empower individuals to identify their needs and fulfil their obligations with support from others (Pranis, 2007). In addition, Van Ness and Strong (1997) have identified three main principles of RJ, as follows:

- RJ requires healing of harm, if crime (or wrongdoing) is about harm committed;
- Repair of harm must include input from people affected by the harm and;
- The repair of harm requires society to rethink its role in response to the crime and to use a facilitative approach by to resolve problems as compared to being the professional expert.

When young offenders commit wrong, acts would be shamed by authorities. However, shame may bring about negative impact on youth’s self-concept through labelling. The term “reintegrative shaming” was framed by Braithwaite (1989) to remove stigma experienced by offenders by undergoing a restorative process which could maintain their dignity though gestures of reacceptance and provision of support, after disapproval of their actions, separating the person from the deed (Braithwaite, 1989, 1999). In an in-depth study on Hong Kong’s youth, Wong (1999) found that reintegrative shaming is a useful method in an oriental context, and positive shaming and restorative values such as forgiveness are compatible with Asian values.

GROWTH OF RESTORATIVE JUSTICE IN SINGAPORE

Arising from the awareness of the social movement for criminal justice reform in the 1990s and the emerging trends and challenges in the new millennium, former Chief Justice Yong Peng How of Singapore envisioned a communitarian youth justice model where youth offenders can integrate back into their community with their needs holistically address (Braithwaite, 1999; Yong, 1998). As part of Subordinate Courts workplan in 1998, Chief Justice Yong set the
Singapore’s youth court’s restorative model of youth justice seeks to “restore or re-integrate the wayward juvenile back into society, as a useful and productive member of the same” by:

1. Holding the youth offender responsible for his behaviour by taking responsibility of the consequences of his offending acts through reparation to society;

2. Allowing victims, where appropriate, to confront offender to make him aware of the harm caused; and

3. Requiring parents to take responsibility of their child’s behaviour and to empower them in the rehabilitation process (Mesenas & Lim, 2003).

Though Singapore adopted RJ as a youth justice model, Singapore was clear that RJ was introduced “not as a model of diversion from the Juvenile Court (now Youth Court) but as an integrated juvenile justice system, essential to the judicial disposition process” (Yong, 2000 as cited in McCarney, 2003) unlike New Zealand, where RJ processes such as the family group conferences were introduced as an alternative to court sentencing (McCarney, 2003; McCold, 2001). The Singapore youth justice system seeks to (i) increase diversionary programmes to prevent young offenders from entering the justice system, (ii) reduce youth penetration into the justice system, (iii) have proactive intervention on youth offending behaviours and (iv) to earn public’s support and confidence in the juvenile justice system (Chomil, 2002).

Family conferencing (FC), was the first RJ programme piloted in the Youth Court (then Juvenile Court) in April 1994 and launched in 1995 for young offenders aged 7 years or above, and below the age of 16 years. This restorative conferencing initiative between offenders and victim was part of former Chief Justice Yong’s vision for a world class judiciary system for Singapore at that time (Carruthers, 2003; Yong, 1998).

In 2001, the Children and Young Persons Act (CYPA) was subsequently amended to better meet the needs of youth offenders. Family conference procedures were spelled out in the Children and Young Persons Act (Family Conferencing) Regulations 2001, providing the Youth Court greater options to manage young offenders (Mesenas & Lim, 2003). According to the CYPA (2001), the participants of the FC includes (i) the offender, the parents/guardians/family members, (ii) investigating officer, (iii) prosecuting officer, (iv) probation officer, (v) victim of the offence, (vi) the parent/guardians/family member of the victim, (vii) school representative, (viii) counsellor/social worker/medical practitioner, (x) or any person the court thinks is necessary (AGC, 2001).

Singapore’s RJ development is driven by the Youth Court as it lends its power and legitimacy to RJ progresses such as FC. The idea behind the FC is to create “transformative opportunities” where an offender experiences a transformation in his thinking by adopting a positive mindset and attitude, while guided by an experienced counsellor or psychologist (Magnus, Lim, Mesenas, & Thean, 2003; McCarney, 2003). The premise of the FC facilitating sentencing is for re-integrative shaming to take place. However, over the years FCs have been used for other purposes, but its name has been retained (Ozawa, 2002).

Where victims are agreeable to be involved in the FCs for youth offenders on probation, “Project HEAL” (Healing, Empowering and Linking) is carried out within the Youth Court since 2003. Project HEAL consists of restorative conferences held in the court premises for victims, probationer and their family members to discuss restitutions or amendments which the probationer is willing to make. This is the only FC where the victim is to be present and when the victim decides not to be physically present, a statement recorded by the police is read out to the offender. This project is a partnership programme between the Youth Court and Ministry of Social and Family Development (MSF) (Chan, 2013; MSF, 2018).

If the probationers are detained to reside in the Singapore Boys Hostel, a juvenile institution for rehabilitation of youth offenders, RP such as circle processes and restorative values such as respect, responsibility, restoration and reintegra- tion would be adopted under the ThroughCare pilot programme (Low, 2018, November). This is one typical example of adopting RJ in Singapore.

In the community, social service organisations such as Beyond Social Services (BSS) and Lutheran Community Care Services (LCCS) got on to the early wave of RP in 2006. BSS uses Family Group Conferencing (FGC) to bring the support system of children and youth in their community to expand their social capital and to give them a voice in their care plan. Restorative conferences were also carried out to support youth in making amendments to their victims and the community with the hope of keeping them out of the youth justice system.

In 2010, LCCS was accredited as a partner of the International Institute for Restorative Practices (IIRP) and the Centre for Restorative Practice was established two years later. Schools, grassroots organisation and various residential institutions such as prison services were supported by LCCS in their adoption of RP. With growing recognition of the versatility of RP in various contexts, organisations like South Central Community Family Service Centre (SCCFSC) integrated RP with the Asset-based Community Development (ABCD) model to strengthen communities they work with, while Babes Pregnancy Crisis Support uses FGC to bring families together to support youth with unplanned pregnancies.

DEVELOPMENT OF RESTORATIVE PRACTICE IN SCHOOLS

With the adoption of RJ in school setting at various jurisdictions, such as a high school in Queensland, Australia held a first school-based conference to repair harm from a severe school assault in 1994 (Cameron & Thorsborne, 2001); practitioners and scholars had endeavoured to develop different models of RJ in schools (Costello, Wachtel, & Wachtel, 2009; Hopkins, 2003; Morrison, 2007; Thorsborne & Blood, 2013; Wong & Lo, 2011). Believing in people’s ability to resolve their own problems, being mutually respectful, congruent and inclusive in problem-solving are some values school can use to guide their practice (Hopkins, 2003). RP is recognised as an intervention which also provides students a safe space to express their feelings, needs, listen to others’ perspectives and heal relationships (McCold, 2005). Schools that have adopted RP was found to have a reduction in school bullying (Morrison, 2006), out-of-school suspension (Stinchcombe, Bazemore, & Riesterenburg, 2006), problem school behaviour, and they also experienced improvements in academic progress, school attendance (Fronius, Persson, Guckenberg, Hurley, & Petrosino, 2016) and a positive school climate (McCluskey et al., 2008).

In 2005, the Ministry of Education (MOE), Singapore, piloted RP as a disciplinary tool in four primary schools (Chan & Ismail, 2007). The pilot was first introduced in 2004 by then Minister of Education, Mr Tharman Shanmugaratnam at a Singapore Teachers’ Union symposium on discipline. Minister Tharman highlighted that discipline is beyond behaviour management and the process of discipling is equally important as the outcome. The adoption of a whole-of-school approach, the balancing of pastoral and punitive strategies, and using proactive strategies were a few observations identified by schools to sustain a positive discipline climate (NAS, 2004).

Around the same time, MOE also provided schools a Discipline Framework (DF) which repeated “effective discipline requires a whole-school, multi-pronged approach”. It states that the goal of discipline is self-discipline though a learning process to develop students’ thinking and moral faculties; and leadership is a key factor for effective school discipline. While schools were encouraged to adopt their own disciplinary strategies and experiment with new approaches, one strategy (that is, RP) highlighted is to develop the social and emotional competencies of students (MOE, 2018a; NAS, 2004). Educational authorities around the world have curriculums that develops pro-social behaviours and competencies, such as self-awareness, self-management, social awareness and social management in students, and RP is one approach in doing so (Burnett & Thorsborne, 2015). Singapore is no exception, social and emotional competencies are also core aspects of the MOE 21st century competencies and student outcomes (MOE, n.d.).

In addition to using RP as a disciplinary tool, MOE also encouraged schools to adopt RP to enhance teacher-student relationship (TSR) using a whole-of-school approach to build a culture of care (MOE, 2016). The goal of RP is to facilitate students to take responsibility, learn and support each other through relationships, or social capital (Morrison, Blood, & Thorsborne, 2005). When students feel connected, their pro-social behaviour increases and anti-social behaviour are reduced (McNeely, Nonnemaker, & Blum, 2002). Supportive TSR can help foster a positive school climate, sense of belonging (Vieno, Perkins, Smith, & Santinello, 2005), improve academic performance (O’Connor & McCartney, 2007) and reduce student dropout (Lee & Burkam, 2003). If RP is restricted to incidents involving a small percentage of the school, it has limited capacity to influence or change a school culture. Thorsborne (2013) advocates for a whole-school scale change of minds and hearts.

RP schools have identified from a systematic review that the most successful RP approach is a whole-school use of restorative ethos for prevention and education at different levels, and also used as a response to wrongdoings or to mend relationships (McCluskey et al., 2011). However, among the schools that have adopted RP in Singapore, selected schools adopted a whole-of-school approach. Wachtel & McCold (2001) noted restorative activities such as informal circles, small group conferences to formal restorative conferences are usually used in schools.

To embrace a culture of care through good TSR in schools, schools are encouraged by MOE to adopt any one of these whole-of-school approaches - RP, Transactional Analysis (TA) or Positive Education (PE), depending on the needs, beliefs and values of the school. MOE also noted that the chosen approach has to resonate with the teachers and school leadership for transformation to be sustainable (MOE, 2016). If schools would like to adopt RP, it is crucial to adopt long-term strategic planning with milestones for short to long term outcomes (Morrison et al., 2005). Corresponding to the logic highlighted in the Social Discipline Window proposed by Wachtel & McCold (2001), where control and support provided to students simultaneously are particularly useful for positive behavioral changes. It is also noted that the Organisational Change Window also advocates that effective changes take place when there is a combination of high pressure and high support using a participatory process - the “WITH” effect (Costello et al., 2009).

With MOE’s encouragement to adopt RJ as a whole-of-school multi-prong approach, growing number of schools have partnered with LCCS; and LCCS will act as a trainer or consultant in the implementation of RP. As of 2012, LCCS reported that 30 schools were trained due to growing popularity of using RP in schools (Bryna, 2012). According to Restorative Practices Singapore (RPS), a social enterprise, she has provided training to over 80 schools in Singapore (RPS, 2014).
CASE EXAMPLES OF SCHOOLS ADOPTING RESTORATIVE PRACTICES

The implementation of RP in Singapore schools ranges from using it as a behaviour management to schools adopting RP’s ethos as part of their vision to be a restorative school with plans over a period of time. From the literature review, there are 267 primary and secondary schools in 2017 (MOE, 2018b). Ping Yi Secondary School (Ping Yi), MacPherson Primary School (MacPherson) and New Town Primary School (New Town) are a few schools that use RP proactively to improve TSR. There are certainly more schools that have adopted RP, however, little have been written about their use of RP in literature. In 2019, MacPherson merged with Cedar Primary School and used the latter’s school name (Leow, 2017), hence this chapter only captures MacPherson’s pre-2019 journey. Illustrations of the schools’ journey with key events are presented below in Table 1: Timeline of Ping Yi, MacPherson and New Town RP journey.

Table 1: Timeline of Ping Yi, MacPherson and New Town RP journey.

PING YI SECONDARY SCHOOL

Ping Yi began her restorative journey in 2005 as one of the four pilot schools that implemented RP. As part of her learning journey in early 2006, three members from the school’s core team visited Australia to learn about restorative schools (Chan & Ismail, 2007). In 2006, Ping Yi decided to set a goal “to be a restorative school by 2010” and adopted “inspiring a shared vision” for the initial phase of their journey. Over the last 14 years of her RP journey, she had experienced two major transitions – a change in school principal in 2008 and a school merger in 2016. In 2012, she developed a vision to strengthen and deepen their RP for the school to focus their efforts on (Chan & Tan, 2012). Determined to retain the restorative culture, she continued to deepen RP despite the school merger and is currently working towards having “every staff an RP advocate” (Cheong & Noorzura, 2018).

MACPHERSON PRIMARY SCHOOL

MacPherson started her restorative journey significantly later than most of the pilot schools in September 2012 but she was quick to implement RP. In the following year, RP was used in all classes, and upper primary students were taught RP and their parents introduced to RP (MOE, 2016). However, MacPherson merged with Cedar Primary School in 2019 and it is uncertain if the school still uses RP. Nevertheless, we have something to learn from her recent past restorative journey.

NEW TOWN PRIMARY SCHOOL

New Town was trained in RP in 2012 and had progressively trained her staff and teachers between the years of 2014 to 2016 with LCCS as consultants, before implementing an RP programme “Building Good and Effective Relationships” (BGER) in 2017. The BGER programme helps to train teachers to use RP to customised lesson plans and to familiarise teachers with the principles and skillsets of relational circles (Tan & Tee, 2018, November).
STAGES OF ORGANISATIONAL CHANGE

Thorsborne & Blood (2013) suggest that vision and values are crucial in influencing all management and leadership decisions for whole-school change in implementing RP. To execute change, (i) strategy, (ii) RP systems processes and skills, (iii) policies and procedures, (iv) relationships, (v) community and (vi) identity and beliefs are themes for people to connect emotionally and rationally. Thorsborne & Blood (2013) had adapted international change expert, John Kotter’s (2012) 8 steps of change for whole-school change in using RP; it consists of the following 3 stages described briefly below.

The 3-stage of organisational change will also be used to highlight examples from Ping Yi, MacPherson and New Town to provide us some insights on their stages of change and share examples of the implementation of RP in the 3 schools, based on information available. The findings below are based on literature review and may not capture all RP initiatives by the schools.

STAGE 1 - GETTING READY FOR CHANGE

In this stage, schools find reasons to improve and get buy-in from the school community to adopt RP. The support from teachers are usually gradual and progressive. A core team of staff with similar values and beliefs can begin to drive the change process by starting conversations for change. At this phase, schools can also align her vision with restorative values to guide practice (Burnett & Thorsborne, 2015).

Step 1: Making a case for change. Schools that use RP may not be experiencing problems but they are required to find their own unique RP vision (Costello et al., 2009). Institutional imperatives may also be used to start dialogues to implement change but it will require both rational and emotive reasons from the school to effect change (Blood & Thorsborne, 2006; Burnett & Thorsborne, 2015).

In the case examples, two schools saw the limitations of punitive disciplinary approaches as students from socially disadvantaged families receive insufficient support from home and have generally strained relationships; there was a need to build good relationships in school. Another school saw RP as an approach to help teachers model the building of good relationships. RP was selected as a whole-of-school approach to build positive TSR and Student and Student Relationships (SSR), in addition to a disciplinary approach to help students reflect and make things right for victims (MOE, 2016; Tan & Koh, 2015a; Tan & Tee, 2018).

Step 2: Putting a team together. At Ping Yi, school leaders and non-teaching staff form part of the core team consisting of the school principal, vice-principal, three head of departments and an operations manager. Other schools may consist of members from the disciplinary committee or student development team to drive efforts with the support of their school leaders (MOE, 2016; Tan & Tee, 2018, November). To ensure continuity of RP in schools, it is recommended to include like-minded individuals as new members to the team to counter any manpower changes (Burnett & Thorsborne, 2015).

Step 3: Developing a vision. Early in the RP journey in 2006, Ping Yi had developed a goal “to be a restorative school by 2010” after a learning journey to Australia and numerous discussions with staff and teachers. Constant dialogues and revisits to the theoretical underpinnings and rationale of RP helped to refine their understanding and adoption of RP. Over the 14 years, Ping Yi had established visions that reflect the focus of their journey to help bring the school together as illustrated in Table 1 (Chan & Ismail, 2007; Chan & Tan, 2012; Cheong & Noorzura, 2018).

STAGE 2 - EXPERIMENTING WITH NEW PROCESSES AND SYSTEMS

At the implementation phase, risks are taken to experiment with RP with the support of the school leadership, while RP skillset are being deepen concurrently. School leaders need to offer support, affirm and recognise efforts while walking the talk. Small wins are also shared through stories and data to encourage staff and to increase buy-in gradually (Burnett & Thorsborne, 2015).

Step 4: Communicating the vision. Annual mid-year seminars for teachers were dedicated to RP and character development at Ping Yi, reflecting the importance given to RP. Her new principals were also supportive and had continued the school’s legacy allowing restorative culture to set roots. Ping Yi attributed her restorative culture to strong leadership (Chan & Tan, 2012; Cheong & Noorzura, 2018). MacPherson saw the need to engage parents proactively by introducing RP at her inaugural Parent-in-Education Conference in 2013 and the subsequent years (MOE, 2016).
Step 5: Empowering people and overcoming barriers. Below is a table illustrating how the three schools have used different initiatives to experiment with RP. Table 2: RP initiatives at Ping Yi, MacPherson and New Town, shows the systems, processes and human resource initiatives undertaken by the three schools to win the hearts and minds in the school community to effect the change.

<table>
<thead>
<tr>
<th>Teachers &amp; Staff</th>
<th>New systems and processes:</th>
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<tbody>
<tr>
<td><strong>Ping Yi</strong></td>
<td>• Annual mid-year seminar on RP and character development</td>
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<td></td>
<td>• &quot;Year Head&quot; as RP ambassador</td>
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<td></td>
<td>• &quot;Hive System&quot; to increase social capital across all levels</td>
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<td></td>
<td>• Integrate circles into co-curricular activities (CCA)</td>
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<td></td>
<td>• Class conferences to repair and rebuild strained relationships of 3% - 5% of students (Chan &amp; Ismail, 2007; MOE, 2016)</td>
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<td></td>
<td>• Student morning reading period to update on student welfare (Tan &amp; Koh, 2015)</td>
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<td></td>
<td>• Student Management Policy for teachers involved in conferences facilitated by School Development Team (Cheong &amp; Noorzura, 2018)</td>
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<tr>
<td></td>
<td>• Initiate new stuff in RP (Chan &amp; Tan, 2012)</td>
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<td></td>
<td>• Deploy new teachers for minimally 2 years (Tan &amp; Koh, 2015)</td>
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<tr>
<td></td>
<td>• Adopt buddy system, between experienced and inexperienced teachers</td>
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<tr>
<td></td>
<td>• Succession planning (Cheong &amp; Noorzura, 2018)</td>
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<td></td>
<td><strong>Materials:</strong></td>
</tr>
<tr>
<td></td>
<td>• Create case repository (Cheong &amp; Noorzura, 2018)</td>
</tr>
</tbody>
</table>

| **MacPherson**   | New systems and processes: |
|                  | • Guidelines to handle student well-being matters |
|                  | • Train all educators (AEP) |
|                  | • Pocket-sized RP cards with reporative questions for teacher use (MOE, 2016) |

| **New Town**     | New systems and processes: |
|                  | • LCSG supported co-constructed customized lesson planning and co-facilitate circles from 2017-2019 (Tan & Tee, 2016, November) |

<table>
<thead>
<tr>
<th>Students</th>
<th>New systems and processes:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ping Yi</strong></td>
<td>• Class circles at start of year to set expectations for all students &amp; project work (Chan &amp; Ismail, 2007)</td>
</tr>
<tr>
<td></td>
<td>• Integrate circles into form teacher guidance period (FTGP) (Chan &amp; Tan, 2012)</td>
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<tr>
<td></td>
<td>• Formal conference for`disrespect, undesirable attitudes, wrongdoer &amp; victim (Chan &amp; Ismail, 2007)</td>
</tr>
<tr>
<td></td>
<td>• &quot;Annoying you&quot;, 5-10min between teacher and student (Chan &amp; Tan, 2012)</td>
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<tr>
<td></td>
<td>• &quot;Blue form&quot; with effective questioning for reflection</td>
</tr>
<tr>
<td></td>
<td>• Small group conference for wrongdoers &amp; victim</td>
</tr>
<tr>
<td></td>
<td>• Peer-counseling programme (Tan &amp; Koh, 2010)</td>
</tr>
</tbody>
</table>

| **MacPherson**   | New systems and processes: |
|                  | • Circle Time for all classes |
|                  | • Training: Primary 3 to Primary 6 students trained in RP for an hour |
|                  | • Selected student leaders trained in RP Leadership Programme |

| **New Town**     | New systems and processes: |
|                  | • Integrate circles during FGP |
|                  | • Training: Students trained in Social Discipline Window and restorative questioning (Tan & Tee, 2016, November) |

<table>
<thead>
<tr>
<th>Parents</th>
<th>New systems and processes:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ping Yi</strong></td>
<td>• Feedback from parents (Chan &amp; Tan, 2012)</td>
</tr>
<tr>
<td></td>
<td>• RP introduction to new parents annually, e.g. Parents-in-Education Conference (MOE, 2014)</td>
</tr>
</tbody>
</table>

| **MacPherson**   | New systems and processes: |
|                  | • Parents involved in teaching values (Tan & Tee, 2016, November) |

| **New Town**     | New systems and processes: |

Table 2: RP initiatives at Ping Yi, MacPherson and New Town.

In all the three schools, the identified systems and processes were progressively implemented over the adoption period. Teachers in the three schools were trained internally and externally, while selected students in MacPherson and New Town received RP training. All schools have integrated circles in their classes (such as FTGP) and involved parents in the roll-out.

In Ping Yi, systemic changes such as the use of a “Year Head System” (YHS) and “House System” (HS) helped the school to “facilitate a conducive school environment to sustain restorative efforts” by building positive relationships, in other words social capital. Similar to subject heads of academic departments in school, such as head of department for mathematics, YHS consists of senior teachers appointed for each educational level to help students progress in other domains for holistic student development. Year heads monitor student progress in physical fitness, appreciation for arts, character and social emotional development (Chan & Tan, 2012). In addition, Year Heads are also champions of RP and they help facilitate TSR and SSR as part of the school’s effort to integrate RP at the systems level “horizontally” (Cheong & Noorzura, 2018).

HS, on the other hand, provides a platform to build social capital “vertically” across educational levels and classes based on students’ academic results, to interact, team build and gain a sense of belonging through house activities or inter-house competitions. HS also provides teachers an opportunity to build positive relationships with students whom they do not teach (Chan & Tan, 2012).

Step 6: Generating short-term wins. Sharing of stories and small wins help to encourage staff and teachers experimenting with RP. Upon implementing RP, schools had reported signs of improvement through various indicators. At MacPherson, a high percent of students rated that they have a good TSR and SSR in the Student Satisfaction Survey, conducted in 2014, one year after the implementation of RP (MOE, 2016).

Ping Yi also experienced progressive improvement for their Quality School Experience (QSE) Survey from 2007 for more than a decade. The QSE survey is conducted by MOE annually for Secondary 2 and 4 students nation-wide and the following school level indicators (Chan & Tan, 2012; MOE, 2016):

- Increased median percentage of students who are punctual between term 1 and 2 by 8% (Chan & Ismail, 2007)
- Reduced median percentage of late comers between term 1 and 2 by 2% (Chan & Ismail, 2007)
- Average number of fighting incidents per month reduced to almost half, from 4 to 2 incidents per month, from 2005 to 2007 (Chan & Ismail, 2007)
- Students with less than 60% attendance reduced from 2008 (7.5%) to 2011 (1.8%) (Chan & Tan, 2012)
These results had also encouraged Ping Yi to develop their own evaluation tool and gather feedback from the school community on their RP (Chan & Tan, 2012).

**STAGE 3: EMBEDDING THE CHANGE**

In the final stage, steps are being taken to ensure changes are embedded into the system to maintain the restorative culture. New staff are inducted into RP and experienced staff are trained in more advance skillsets to develop professionally (Burnett & Thorsborne, 2015).

Step 7 & 8: Keeping the pressure on and making the changes stick. Ping Yi seems to be the only school in this phase the last few years after successfully adapting to the school merger in 2016. Despite having one third of new students under new school leadership, the restorative culture was spread to the new staff and students. New systems and process during their third phrase consisted of mainly human resource policy changes, with circles, conferences, affective questions and other RP already established in the school.

From 2012, she started to conduct induction for new staff, have form teachers remain with their classes for a minimal of 2 years, adopted a buddy system for teachers, did success planning for RP and created a case repository to record and share cases. Ping Yi had also shared RP to more than 200 schools by 2013, and have presented in numerous IIRP conferences and local RP conferences (Chan & Tan, 2012; Cheong & Noorzura, 2018; Tan & Koh, 2015b; MOE, 2016)

**CHALLENGES**

Schools expressed the following challenges in the adoption of RP (Chan & Ismail, 2007; Chan & Tan, 2012; Cheong & Noorzura, 2018; Tan & Tee, 2018, November; MOE, 2016):

- Perception of RP as a “soft approach” as staff are concerned students may perceive the school as less inclined to enforce disciplined thus misconstruing RP to be a “soft” approach
- Time consuming process
- Staff competency
- Wrongdoer’s readiness to talk about offense
- Inconsistent understanding of RP
- Managing expectations on RP
- Building RP culture throughout the school

**DISCUSSION**

The above findings suggest that whole-school RP approach has been fully adopted at Ping Yi in Singapore with characteristics of stage 3 of the organisational change model (Thorsborne & Blood, 2013). Both MacPherson and New Town are assessed to be at stage 2 of the organisational change model where RP is being implemented, while mindsets and systems change continue to evolve for restorative culture to be embedded. It is estimated to take about 4 to 5 years for culture change to be pervasive in a school, depending on the school’s unique challenges and priorities (Morrison et al., 2005). As such, the duration required for a whole-school RP adoption would differ in the various schools’ journey.

In the case of MacPherson, it has recently merged with another school and may have to restart step 1 to make a case for change.

The experiences of the three schools and literature review have demonstrated RP requires strategic planning over an extensive period of time, for instance, Ping Yi took around 14 years and revisioning exercises to be stage 3. Schools who have been trained in RP by RPS and LCCS may have implemented selected restorative activities but not adopted RP as a whole-of-school approach, inferring from the limited number of Singapore schools sharing their best practices in local or international conferences. If RP is not implemented at the whole-school level, scholars had found little impact on student’s attitudes or outcomes (Blood 2005; Chmelynski 2005; Drewery 2004, as cited in McClusky et al., 2008). This lack of student outcomes in the interim may have contributed to the limited prevalence in schools in Singapore.

The identified implementation challenges may have made it difficult for Singapore schools to adopt RP as a whole-of-school approach based on the experiences of the three case examples. For example, unaddressed concerns based on misconceptions of RP (or others listed above) or significant system challenges, such as the change in principal, school mergers and other manpower changes can impact the adoption process. The support of school leaders is important in
RP’s continuity and longevity in schools adopting RP, especially after major transitions.

Competing school initiatives for whole-school approaches in Singapore schools tap largely on the same available resources making it difficult to obtain widespread acceptance. Other initiatives such as TA and PE may also reduce the chances of RP being selected as a whole-school approach, hence limiting the growth of RP in Singapore schools.

**RECOMMENDATIONS**

Below are some suggestions for schools who have embarked on the RP journey or schools that are thinking of starting RP. These suggestions are based on anecdotal experiences shared by staff and teachers from the three schools and secondary analysis.

1. **HAVE SCHOOL-LEVEL BUDDY SYSTEM TO HELP SCHOOLS KICK-START RP**
   
   Schools can fast track the process of finding resources and clarifying misconceptions of RP if there are more experienced school leaders or teachers who are available to share their experiences and learnings in implementing RP in their school. It may help encourage schools to embark on this journey knowing support from experienced schools are readily available.

2. **ENGAGE CONSULTANTS TO GUIDE PRACTICE**
   
   After informative one-off trainings, teachers may feel more equipped and confident to try RP if they have access to experienced practitioners or consultants to seek further clarity for practice. After New Town’s first RP training in 2012, she prepared herself by engaging LCCS for additional training and even partnered them to implement an RP programme from 2017 to 2018 (Tan & Tee, 2018, November). This collaboration helped New Town to close knowledge gaps.

3. **ESTABLISH INTERNAL INDICATORS**
   
   Depending on the reasons and specific RP implemented in schools, it will be helpful to adopt some qualitative and quantitative indicators where schools are able to collect data with sufficient ease. While there are existing surveys such as the “Student Satisfaction Survey”, “Quality School Experience Survey” and “School Climate Survey” carried out nationwide annually or biannually (Chan & Tan, 2012), these annual surveys do not showcase benefits promptly. Useful data are often collected, however, they are not used with the intention to compare progress at a biannual or quarterly basis. Unlike annual surveys for school students, these class, standard or school level data are unlikely to be compiled at the national level with meaningful interpretation and or follow up actions. With internal indicators established in schools, school leaders or the RP team could use these data to reflect their progress and clear benefits to increase buy-in from teachers, parents and other schools.

4. **CREATE REPOSITORY OF RESTORATIVE EXAMPLES**
   
   Experiences are often drawn from memory to tell a story. However, unique circumstances of a student’s situation or the details from an action plan after a restorative conference may be lost overtime if we only rely on memories of individuals. Often key observations or actions by facilitators or teachers going the extra mile to prepare for the conference are not captured, leading to an incomplete transfer of experience for all to reflect, improve or share. Creating a repository of restorative efforts allows the school to use their past experiences as teaching tools, have success stories stored to reflect the school’s culture, bring people together, and to induct new teachers or staff. Stories have the potential to create identity and culture. The restorative efforts of the school should remain accessible even after teachers exit from the school for restorative philosophy and practices to grow beyond personalities.

5. **DEVELOP A RESTORATIVE ECO-SYSTEM**
   
   When stakeholders of the school community are introduced to the restorative philosophy and are involved in supporting the school’s restorative efforts, an eco-system is built as relationships form. At SCCFSC, RP is combined with the ABCD model to engage children, parents and community partners in community policing with the support of their neighbourhood police (Palvindran, Siew, & Eswari, 2018, November). Workgroups such as Networked Learning Community of Discipline Masters (MOE, 2019) may also develop strategic partnerships with key stakeholders to expand their schools’ restorative eco-system proactively at the systems level.

6. **ENCOURAGE SHARING AT RESTORATIVE PRACTICE CONFERENCES**
   
   Local conferences are opportunities to network and exchange ideas across and within sectors. Having teachers share their use of RP in the educational context at a local or international conference helps to ensure continued transforma-
tion in schools. Conferences have the potential to inspire teachers from other schools when they share their creative approaches in changing systems, structures and relating with students. Ping Yi empowers her staff by encouraging them to share their RP journey regularly over the decade at local conferences organised by LCCS and international conferences organised by IIRP (Cheong & Noorzura, 2018). Since only a limited number of teachers can participate in international conferences due to the time and resources required, it will also be helpful if more schools present and attend local RP conferences organised annually or bi-annually for practitioners.

7. DEVELOP INTERNAL EXPERTISE AND DEVELOP PROFESSIONALLY WITH RP

RP has been adapted for use in the educational setting to develop social and emotional competencies for students, including students with special needs. With advance training and practice, teachers can adapt RP to support students with attention deficit hyperactivity disorder (ADHD), social, emotional and behavioural difficulties (SEBD), speech, language and communication needs (SLCN), or autistic spectrum disorder (ASD) in the school setting to improve their social and emotional competencies and to address school incidents. As such, RP can assist teachers to meet the needs of the different profiles of students, use it to advance professionally and to share one’s specialised knowledge with fellow teachers (Burnett & Thorsborne, 2015).

CONCLUSION

This piece of exploratory study in Singapore suggests that RP is more than an alternative disciplinary approach in Singapore. There is a shift in using restorative principles for behaviour management to relationship building in schools since RP was piloted in 2005. The time taken may be long for schools to see results on student outcomes, however, there are signs of schools keen in adopting RP using a whole-of-school approach and advancing knowledge of RP in Singapore based on new research undertaken in schools (Wan, Lim, & Wong, 2018, November).

As a collectivist society with greater respect for hierarchical relationships as compared to the West, it may be easier for Singapore or an Asian country to create systemic change in the school system by changing roles and responsibilities of teachers to support a whole-of-school culture change. One such instance is the use of YHS and HS in Ping Yi to build social capital and to embed RP through systems change, early in their adoption of RP. This structural approach is an example of how cultural change in schools can be facilitated.

Some challenges in implementing RP in Singapore can be unique due to overarching system or policy changes that could impact the RP adoption process. More research is required to understand the relationship between RP and student outcomes. It will be good to advance knowledge through future research such as examining which practices such as, affective questions, circles, small group conference, formal conference, result in better TSR in schools? Do students from schools using RP in Singapore perform better for academic subjects, social competencies, behaviour, and contribute to MOE 21st century desired education outcomes (DEO) for students? Last but not least, what support do Singapore schools require to adopt RP with greater ease?

To conclude, the case examples suggest that RP can be implemented successfully in Singapore as a whole-of-school approach over a period of time and the interest to adopt RP in schools is still growing based on the recent adoption of RP the last few years. Hopefully in the next five years, outcomes of these adoptions will show and increase the prevalence of RP in Singapore schools.
REFERENCES


INTRODUCTION

A small island at the southern tip of China under Chinese sovereignty, Hong Kong remains a place where there is an interesting blend of beliefs that have been significantly influenced by her past as a British colony for over a hundred years, yet the island itself has a homogenous population with over 90% of local residents being ethnic Chinese. The culture of criminal justice in Hong Kong is still based on adversarial legalism, which is a system adopted in many common law jurisdictions and is perceived by the general public as a mechanism that upholds justice. Given its common law origins, the criminal justice practice in Hong Kong follows a system that defines elements of crime and punishment under its statutory laws and common law cases that are mostly based on retribution.

Under this socio-legal cultural background that places importance on retributive justice, even when rehabilitation for young offenders is administered, restorative practices have not been formally embedded in the current criminal justice system. With a sharp decrease in crime rate in recent years, the use of restorative justice also experienced a rapid decline. The development of restorative justice was seemingly gloomy.

The authors designed a research that combined qualitative and quantitative methodologies in exploring into the reasons for the fall of restorative justice, especially in relation to its practice. One of the findings was that mediators who are having a “helping professional” background, such as social workers and teachers, are more restorative justice prone in dealing with a conflict. With this in mind, we advocate the use of restorative justice in education settings though a “School Harmonious Project”. Schools are advised to train up teachers and senior students to be restorative justice facilitators for resolving conflicts in school. This paints a silver lining amid the gloomy fall of the uses of restorative justice in Hong Kong, for it sheds light on the application of restorative justice in an education setting.

ABSTRACT

Restorative Justice mediation has experienced a robust development in Hong Kong with an increased use in the 2000s, particularly so under the auspices of the diversionary scheme for youth led by the police. The use of restorative justice in dealing with juvenile justice in schools and among social workers has also increased during the initial period of development. Despite this growth, no formal youth justice legislation has been enacted for restorative justice to play a legal role in the criminal justice process, much as a result of a socio-legal culture that places importance on retributive justice. With a sharp decrease in crime rate in recent years, the use of restorative justice also experienced a rapid decline. The development of restorative justice was seemingly gloomy.

The authors undertook a research on the question of the major elements that contribute to the use of restorative justice approach in this socio-legal setting. The research started with a qualitative approach in a naturalistic inquiry on restorative justice cases, followed by a quantitative analysis using regression models to measure the correlations between sense of retribution and the practice of restorative justice. While the major premise of the research is on investigating how a retributive system and legal culture will form a hindrance to the development of restorative justice, during the course of the naturalistic inquiry, the predominant recurrence of school cases emerged, drawing the attention to the gravity of restorative justice’s development in the education setting more than in the society as a whole. While it was confirmed that a higher sense of retribution will result in a
lower use of restorative justice, the findings also show that mediators in Hong Kong who are helping professionals (e.g. teachers, social workers) are more prone to the practice of restorative justice. The practice of restorative justice has continued in schools and among social workers, amid its gloomy growth. The small efforts of teachers and social workers in sowing the seeds of restorative justice in an education setting are blooming hope amid the decline in the development of restorative justice in Hong Kong.

**THE RISE AND FALL OF THE USE OF RESTORATIVE JUSTICE IN HONG KONG**

The standards of Hong Kong’s penal institutions have gradually advanced from the path of retributive justice since the late 1990s (Ebbe, 2000). In the criminal justice system, diversion programmes are in place to facilitate the rehabilitation of offenders at a young age. A wide range of custodial and non-custodial sentencing options are available that support rehabilitation, including Probation Orders, Detention Orders, Community Service Orders, and Community Support Service Schemes, to name just a few. Apart from these statutory programmes run by both the Correctional Services Department and the Social Welfare Department, the Police Superintendents’ Discretion Scheme (PSDS) is provided by the Hong Kong Police Force. It is a scheme in which senior police officers of the rank of superintendent and above have the discretion to caution young offenders aged 18 or below.

Despite this development pathway of moving away from a purely punitive model and the provision of juvenile justice in a discretionary manner, restorative justice has never been formalised. Perhaps it might be because an ethos of “disciplinary welfare” prevails in the Hong Kong criminal justice system (Gray, 1997). A local criminologist describes such a criminal justice approach as a model of “rehabilitation in the context of strict and paternalistic discipline, surveillance and control” (Vagg, 1991). Restorative practices to youth offending emerged in Hong Kong in the 1990s against this strong disciplinary welfare background. It emphasised repairing the harm done to the victim, the reintegration of delinquents into the community, and the empowerment of those who were affected by the incidence (Wong, 1996, 1999; Wong & Lo, 2011). The restorative justice approach is generally welcome by professionals in the education and social work settings involving delinquents, and is particularly useful in dealing with school bullying by repairing the harm done to peers. The development of a restorative justice system in Hong Kong is strong in the education setting where it emphasises developmental and preventive welfare social services provided within a community setting (Lo, Maxwell, & Wong, 2005; Wong & Tu, 2018). Social workers have been adopting restorative justice in helping students with behavioural problems through school social work services. In Wong’s study on the trial use of restorative practices in schools (Wong, 2008), over 50 schools were trained to adopt a whole-school approach to tackle problems of bullying by the mid of 2000s. Teachers and parents were prepared to work closely with social workers to resolve disputes and restore relationships. The school approach on applying restorative justice has been effective in that bullying behaviour has significantly decreased (Wong, Cheng, Ngan, & Ma, 2011).

The use of restorative justice services particularly in a school setting has flourished since the late 1990s in Hong Kong. It is practiced in the form of mediation in schools, hinging the practice upon a mediation practice model. Around the same time, mediation was promoted by the Hong Kong administration as a result of the Civil Justice Reform, and there was general wide-spread propaganda relating to the use of mediation, leading to
growth in the use of mediation as an alternative method of dispute resolution. The trend of using mediation services has flourished not only as a part of the legal process. The use has been expanded to sectors outside the legal profession, including schools. Apart from the use of mediation in family disputes and building management disputes where two coordinators’ offices were set up within the judiciary (Judiciary, Hong Kong SAR, 2009), mediation in schools is promoted through some peer mediation schemes supported by professional bodies and schools (for example, the Hong Kong Family Welfare Society Youth Mediation Scheme). The development of mediation in Hong Kong was making a huge leap forward at a time when the practice of restorative justice in Hong Kong could have received further publicity, and flourished as a result of this growth. However, the application of restorative justice either through victim-offender mediation or other schemes has experienced a standstill in the past fifteen years, if not a decline. Despite the increase in the number of mediators in Hong Kong, there seems to be no corresponding increase in awareness, not to mention the practice of restorative justice mediation. In fact, the use of this kind of mediation services has declined in recent years, especially on cases referred through the PSDS. As seen in a report compiled by the Centre for Criminology, Faculty of Social Sciences, the University of Hong Kong in partnership with the Methodist Centre in 2012 (Adorjan & Laidler, 2012), despite the general satisfaction on victim-offender mediation services, the participation rate is rather low: of the 164 arrested persons, only 11 agreed to join full mediation sessions. Fewer referrals might be related to the decline in the overall crime rate in Hong Kong, and the same can be applied to the number of crimes committed by juvenile and youth offenders (for details on youth crime statistics, please see Wong & Tu, 2018). The lack of referrals could be attributed to an inclination to adhere to the law instead of exercising discretion in a diversionary scheme (Lui, 2018). This is related to the local socio-legal culture where the rule of law has been upheld more strongly than ever before, and schools becomes the only place where restorative justice practice can maintain its presence in Hong Kong.

**JUSTICE IN ITS SOCIO-LEGAL SETTING VS EDUCATIONAL SETTING**

The common law system adopted in Hong Kong has been significantly influenced by Western concepts in a Chinese society. The culture of justice in town is still based on adversarial legalism, which is a system that has been adopted in many common law jurisdictions and is perceived by the general public as a mechanism that upholds justice. The idea of the rule of law as the foundation of modern states and civilisations, a philosophical and political concept based on the British constitutional theorist Dicey’s remarks on law, includes the broad principles of the accessibility of the law, equity before the law irrespective of rank and status, fair trials, and human rights (Bingham, 2011). The state plays a fundamental role in maintaining a system of administration of justice, and ensures that proper standards of procedural protection are applied by an independent and impartial tribunal (Ashworth, 2002). One important part of the rule of law is the attitudes of ordinary citizens towards their legal system and their belief in its legitimacy (Alkon, 2011). The public conception on whether the law is being followed will affect their opinion about the legal system and the legitimacy of the administration at large. Members of the public see legitimacy as having the authorities make decisions according to the law and proper procedures, and this is seen as being against discretionary power.

The socio-legal environment in Hong Kong differs from those in the West as far as the crime rate is concerned. In the case of the United States, for instance, where money was spent on building prisons and locking offenders away, crime has not decreased (American Psychological Association 2014), and the socio-legal environment prompted the search for an alternative criminal justice system and to look for answers using restorative ideals. In Hong Kong, the crime rate has continuously decreased (Wong & Tu 2018), and there are alternative arrangements in the criminal justice system that serve the purpose of rehabilitation and reintegration, while offenders receive some form of punishment that is desirable and proportionate to the crime committed. The system currently works well, as pointed out by the Government in a 2007 review of the use of restorative justice (Security Bureau, 2007). A report compiled by the Panel of Administration of Justice and Legal Services on the juvenile justice system noted that there are many support measures other than Family Conferences (a name used in the report representing the use of restorative justice mediation) that are also effective; therefore, it is not necessary to make it a mandatory requirement for young offenders and their parents to attend family conferencing or other similar processes. Furthermore, the Hong Kong administration found that restorative justice is a new concept that is still evolving and was implemented through a combination of deterrents and rehabilitative effects in the Hong Kong context. It is therefore considered superfluous to take the risk of involving a still-evolving system. With is difference in the socio-legal environment, restorative justice maintained not to be formalized in the criminal justice system.

On top of this, there is no procedural safeguard in the criminal justice system that brings about the level of confidence and trust in the people in believing that some alternatives, such as restorative justice, will work well. When “retributory” justice works with high confidence, there could be increased doubts in a system that is based on a more domesticated regime or something that is seen as a private matter instead of something that is in the public interest like a violation of the state’s law, thereby making the public private (Braithwaite, 2002). A sense of justice is the opposite of the adversarial system that upholds the rule of law within a public arena holding offenders equally responsible before the law. Concerns increase even more when this kind of private justice system is perceived as being closer to the discre-
tionary power exercised in Mainland China where restorative justice is practiced as part of the criminal justice system, and within which judges are given discretionary power to allow the practice to take place (Wong, 2016). Restorative justice could be seen as being used in a regime where there is a different interpretation of the rule of law, and therefore may not be readily accepted. It is also questioned if this is suitable or advisable in a country where there is a struggle to maintain a legal system in the face of endemic corruption (Alkon, 2011). In a country with higher rates of corruption, the rates of trust and confidence in the formal legal system are lower, and a higher degree of procedural safeguarding is needed for an alternative system to gain legitimacy (Wong, 2014).

It is against this background that there remains a high sense of retributive justice in Hong Kong, and a sense of avoiding anything that aligns with the Mainland system (Lo, 2012). As noted by Lo (2012), the potential danger of restorative approaches in the Hong Kong system is the spread of mainlaidisation, namely, the use of discretionary criminal justice practices in Hong Kong where an informal model of social control is dominant, like in the criminal justice system in communist China where procedural justice is not as intact as it is in Hong Kong, and where there is no concept of the presumption of innocence. Legal professionals, politicians, and even the general public may feel concerned that restorative justice may render the criminal justice system ineffective, nourish the abuse of power, encourage false restoration, or even create greater injustice. There is a need for a clear legal framework for restorative justice to be seen as part of an open and just procedure (Wong & Lo, 2011). In this way, the trust and confidence in its use could be upheld in a more significant way, as in the case of mediation in civil justice reform.

In the education setting, the course of development of restorative justice is less conservative. The use of restorative justice style of mediation has been more readily accepted as a more effective way of settling dispute in schools supported by social workers and teachers. When students are having disciplinary problems, especially those that could potentially incriminatory and indictable under the criminal justice system, the better course of action is through restorative justice conference in order for the students involved be educated than punished, and reintegrated than expelled. The system within an education setting is generally seen as legitimate, probably as a result of the respect for teachers or headmasters, though at time parents might insist on using the “retributive approach” to achieve the kind of justice that they are more familiar with. Despite this, the use of restorative justice style of mediation is generally considered effective and legitimate, as influenced by the success of the use of mediation that gains the trust and confidence of the people as it forms part of the rule of law framework.

**THE INFLUENCE OF RETRIBUTION ON RESTORATIVE JUSTICE PRACTICE: A STUDY IN HONG KONG**

Seeing the decline in the use of restorative justice, a study was undertaken to ask the key question on whether a retributive system and a legal culture will form a hindrance to the development of restorative justice. As cases studied in Hong Kong are largely on young persons who are having disputes with schoolmates, the study undertaken by the authors also put weight on gauging the importance of the influence of the practice in the education setting where teachers and social workers are less exposed to the retributory approach of practice.

The authors designed a study that combined qualitative and qualitative methodologies in exploring the reasons for the decline of restorative justice, paying attention to how this decline might have affected its use in the social work and education settings. The research was conducted between 2016 and 2017, with an aim to identify the essential features of restorative justice mediation practices in Hong Kong, and how these features correlate with one another. In the qualitative stage, retrospective cases and archival audio-records were studied. With the support of three organisations in Hong Kong, namely, the Centre for Restoration of Human Relationship (CRHR), the Evangelical Lutheran Church in Hong Kong (ELCHK), and the Hong Kong Methodist Centre (HKMC), 12 retrospective / archival audio-recorded cases were collected. The offenders involved in these cases are all young persons between 10 and 14 years of age, and over half of them happened in an education setting. The nature of the cases covers a range of offences including assault, bullying, theft, false reports to the police, and sexual harassment. The transcripts of cases were reviewed by the researcher who summarised all noteworthy dimensions and themes emerging from the cases. Common features shared and displayed in all the cases were extracted and shaped into themes on restorative justice practices, including the sense of retribution, empathy, and forgiveness.

The audio-recordings of real mediation cases were further analysed to discern the narrative features. All the audio-copies were transcribed to capture a complete account of each narrative, and the transcripts were studied to identify the recurring form of narratives used by the mediators in different process stages, formulating a set of restorative justice narratives that were used for the quantitative analysis on how the themes are correlated to the practice narratives.

One of the essential features found in the study of the retrospective and archival cases was that mediators who were engaged in restorative justice practices generally lacked a sense of retribution. One explanation to this is that none of
the cases was handled by a legal professional. In most of the studied cases, the social worker handling the case did not differentiate who the perpetrator was as both parties had been involved in acts that were considered hurtful to the other side. When treating both parties as being hurt, social workers saw the need to “repair the harm” instead of “punishing the wrongdoer”. As such, what the mediator is looking for is the end result of restoration, something that does justice in the eyes of the parties themselves, something that money cannot buy, and something that might require some action or promise on the part of the one who is willing to make amends. In this sense, retribution might not contribute to or complement the process of restorative justice. In the qualitative stage of the research, it was discovered that in the mediation sessions, no statutory punishment was imposed upon the wrongdoers. Reparation emerged rather spontaneously when the wrongdoer willingly accepted that what he/she had done was wrong and willingly took responsibility according to the victim’s needs. This is in line with the empathetic approach taken by the mediators and participating parties who were focused not on retribution, but on reintegration and the restoration of the relationship. Retribution takes place more as a by-product after the apology-forgiveness process, or as a willingness to restore the relationship. The focus is more on repairing harm than on a merely levying some form of punishment.

In the quantitative stage of the study, regression models were used to measure the correlations between the key themes in restorative justice practice, paying particular attention to the use of restorative justice narratives. To operationalise the research, different measurement scales were constructed on the common themes, adapting them from scales used by psychologists and social scientists. The reason for adapting these scales is that the more widely adopted measurement scales are used with a certain level of validity and reliability; hence, the results of the survey could increase its predictability and certainty of the results. Retribution is set as one of the common themes and was measured against forgiveness, empathy, and restorative justice narratives. A survey was conducted to measure the correlations between the major themes of restorative mediation and the use of restorative justice narratives (RJ narratives). The survey was conducted in July 2017 and a total of 208 responses were received.

One of the tests conducted was a simple linear regression to attempt to test if attitudes toward retribution significantly predicted participants’ RJ narratives. The scale of retribution significantly predicted participants’ RJ narratives in the regression. The results of the regression indicated that the scales of retribution explained 7.2% of the variance (β= -.276, Radj2 = .072, F(1,206) = 17.026, p = .000). Participants’ predicted RJ narratives equalled 30.077 + -.783 x retribution. Participants’ RJ narratives decreased by .783 for each one-unit increase in retribution. This implies that participants with a higher sense of retribution scored lower in the RJ narratives scale (Table 1). This regression analysis shows that a sense of retribution affects the restorative justice narratives used by the participants. It was found that those who had a higher sense of retribution were less forgiving, which matches the finding in the first stage where no mediators were focused on retribution.

To test whether helping professionals are more restorative justice prone, an ANOVA test was conducted to compare the effect of the type of profession on retribution. There were four categories of professional groups: Group 1: legal; Group 2: helping professions (including medical doctors, healthcare, social work, counselling, education, religious work, and mediation); Group 3: business and finance (including finance/accounting, business management, and administrative support); and Group 4: other professions (including engineering, surveying, police, property, civil servants, information technology, etc.). The result shows a significant difference at a p-value of 0.01, F (3,204) = 3.96, p = .009, np2 = .055. Post-hoc analyses using Tukey’s HSD indicated that a sense of retribution from the legal profession group had a lesser value on the scale than for the helping professions group. The result implies that those in the legal profession have a higher sense of retribution than those in the helping profession group (Table 2). This finding shows that mediators in Hong Kong who are trained beyond the mediation legal framework, i.e. those who are trained in social work, counseling and the like, are more prone to restorative justice than those who have only received legal training.

Research findings confirm the hypothesis that first, retribution is negatively related to restorative justice practice themes such as forgiveness and empathy. The higher the sense of retribution, the lower the sense of empathy and forgiveness, and the lower the use of the RJ narratives. Second, helping professionals more likely to be restorative justice prone, that is, more forgiving and empathetic in their practices.

These findings highlight that the practice of restorative justice does, in principle, contradict the notion of retribution practiced in the criminal justice system. In the criminal justice system, there is the ideal of a fair system of retribution that emphasises the proportion of the punishment meted out and that takes into consideration the seriousness of the offence (Duff & Garland 1994). Youth justice deviates from this standard by allowing young offenders to be held accountable for their behaviour, but there is no need for sanctions, nor do sanctions have to be proportionate to the seriousness of the offence. The proposals of some restorative justice scholars (Duff, 1996, Daly 2000) that there is no dichotomy of retributive and restorative justice practices is somehow illusory, as demonstrated by the research that a sense of retribution is negatively correlated to restoration. The complementary role of retribution and restoration could, however, be realized in the education setting. When practised by teachers and social workers in schools, restorative justice style of mediation embeds in the process the need to pay for the harm done, not necessarily proportionate to the seriousness of the offence to achieve public justice, but voluntarily arrived at to achieve private justice. The offender must have, at the outset of the restorative justice mediation, admitted his/her own fault and responsibility,
and participants in the process are usually coach on how he/she should ponder ways to repair the harm done, and the compensation that he/she is willing to accept as a way of reparation.

In the socio-legal environment of Hong Kong, people often wish offenses to be dealt with as a clear and unique response to a crime to achieve public justice. The practice of restorative justice is inevitably marginalised, battling on the margins of the criminal justice system (Watson, Boucherat, & Davis, 1989). The battle is minimalized in the education setting where the private rights of each party is of a larger concern as compare to the need of retribution, and it is under this setting that the practice of restoration could be advanced and could co-exist within a legal framework of retribution. The devotion to the “School Harmonious Project” by social workers and teachers illustrated how well-implemented restorative justice was in the education scene.

THE SCHOOL HARMONIOUS PROJECT

The “School Harmonious Project” (henceforth, the “project”) was introduced in 2005 by the Centre for Restoration of Human Relationships to advocate for the use of restorative justice in primary and secondary education settings. Schools are advised to train teachers and senior students to be restorative justice facilitators in order to resolve school conflicts. This paints a silver lining amid the gloomy decline of restorative justice in Hong Kong, for it could shed light on the power of using multi-disciplinary education to bring about a change in the development of restorative justice in Hong Kong. Examples of how restorative justice can be used in an education setting will be highlighted. Through such an initiative, more than 100 schools in Hong Kong have benefited from the provision of teacher training, parent seminars, and student courses between 2005 and 2015. The project adopted a so-called “Restorative Whole-School Approach” (RSWA) in motivating teachers, students, and parents to together build a caring and supportive school culture that influences all people concerned to learn how to deal with differences and conflicts. Students, particularly those in the senior years, are taught some knowledge about victims’ personalities and characteristics, as well as skills such as empathy and conflict resolution to support the building of a harmonious ethos in schools (Wong & Lo, 2011; Wong & Tu, 2018). The RSWA approach was proved to be effective in stopping school bullying and enhancing students’ self-efficacy (Wong, Cheng, Ngan, & Ma, 2011).

Despite the continuous advocacy of the use of restorative justice in school settings for over ten years, adopting restorative practices in resolving conflicts in schools could sometimes be hindered by parents who wanted the case to be handled by the Police. Two examples are used here to compare and contrast how retributive and restorative justice approaches were adopted to bring about rather different conclusions regarding two boys who had encountered suspected bullying at school.

CASE 1: THE PENCIL SCANDAL

Percy was in his Primary One when, while trying to find new friends, he played with a number of classmates, and the game very often involved throwing chalk and blackboard dusters to each other, and tapping and slapping each other for fun.

One day, Percy’s mother complained to the school that Percy was bullied by his classmates, since one slapped Percy in the face and another had thrown chalk at him and hit him on the back. The case was dealt with by a school teacher and a social worker, and some conversational exchanges were had. A few days later, Percy’s mother claimed that she had taken him to see a private medical doctor, claiming that someone had stabbed her son in the ear with a pencil resulting in the eraser becoming lodged inside his right ear. As this might be a serious criminal offence of common assault, Percy’s mother reported the case to the police and revealed the case to the media, resulting in a widely reported scandal affecting the school’s handling of the matter.

Attempts by the teacher and the social worker to visit Percy’s family were in vain. The case became a rather high profile one and the school’s headmistress had to conduct a thorough investigation in the lime light; questionnaires were distributed to eight teachers who taught Percy and twenty-four classmates, and CCTV footage was viewed to investigate whether abnormalities could be found. Friends of Percy who had played their usual slapping and tapping games were interviewed to solicit statements on what might have happened. All these matters were reported by the school to not only the parents concerned, but also to the police and the media. This soon sparkled a spiralling chain of actions and emotional reactions by those who were impacted, including the teachers, students, and their parents.

The investigation gathered evidence that was not as purported by Percy’s parents. None of the teachers in the class could recall abnormal behaviour in the boys’ activities during the alleged time when all these things happened, and the CCTV footage also displayed nothing unusual. The classmates who allegedly slapped Percy in the face said it was possible that the incident had occurred once, which could not possibly have caused the injury purported by Percy’s mother.
Another classmate who was alleged to have hit Percy on the back claimed that he did so to pass on the homework workbooks, and denied to having thrown chalk or any other object at Percy. None of Percy’s classmates admitted to having bullied him, nor to having witnessed any such incident. The headmistress could only conclude after the investigation that there was no evidence proving that Percy was jabbed in his eye or stabbed in the ear.

The Rashomon effect was not resolved despite the thorough investigation. Fifty parents, including the parents of Percy’s classmates who went to hear the report of the investigation, proclaimed that the two “suspects” were innocent and that the wrongful accusation had caused high emotions among the parents. Some went on and argued that Percy’s injury was possibly a result of domestic violence and that Percy’s mother’s false claim was a fraudulent attempt to divert the attention of the police. Percy’s mother counter-claimed that the investigation was nonsense, and vowed to the media that the school should be held liable.

The relationship between the school, the parents, and the boy soured to the extent that Percy could no longer stay in the same school. Reluctantly, Percy had to leave the school without having a chance to say goodbye to his friends.

**CASE 2: PAINFUL PRIVATES**

This story took place in a primary school. Fred and Jerry were friends studying in the same grade. Fred and three other boys enjoyed joking and pushing Jerry around for fun. Sometimes they would make fun of Jerry by touching and nudging his genitals. Jerry felt bullied, but dared not say so to his friends. He tried to dodge their pushes, but did not expressly tell his friends to stop, so Fred and the others continued, thinking that it was all just in fun.

One evening at home, Jerry told his mother that he felt pain while urinating. Worried, Jerry’s mother took him to the emergency room late at night, and after some medical check-ups, the doctor confirmed that Jerry had received wounds to his genitals and it was suspected to have been caused by external forces, likely because of the bullying by his classmates. Seeing this as a serious offence of indecent assault, the doctor advised Jerry’s mother to call the police as a matter of usual practice. Without any understanding of the content and consequence of a criminal charge, Jerry’s mother thought that it was the right thing to do in order to find justice for her son, especially since she was advised to do so by the doctor. The police were called, and statements were made at the police post in the hospital.

The next morning, police officers went to the school to see Jerry’s classmates and their parents, and statements were made. Three of the four boys admitted to having bullied Jerry, and that they had kicked him in his genital region when they were, as they put it, playing around. Considering the young age of the boys who were just over the age of ten, the police officers checked with Jerry’s mother to confirm whether she wanted to bring a charge for the case to be heard in court. Jerry’s mother was frightened and helpless because she was unsure what to do. The police officers advised her that she could choose not to go to court and the police would warn the children. She could also opt for another method to seek help from the school social workers to handle the case. She chose the latter option, and the case was referred to restorative mediation by the social workers.

In the pre-mediation phase, it was revealed that Jerry had not told his friends to stop. The reason given by Jerry’s mother was that he has a mild deficiency in his eyesight and his intelligence, and might not have known how to stop the others from hurting him. He just wanted to have friends who played with him and would do homework with him as before. His mother did not want him to be seen as mentally underdeveloped, and therefore had not sought any professional advice. As a result, he was not given any special attention despite his needs. She felt angry and blamed herself, a single mother, for failing to protect her child. Both Jerry and his mother were encouraged to express their feelings and thoughts in the mediation session.

In the preparation meeting with the young boys, Fred was the only one who refused to speak or to admit any fault. The mediator checked whether he would like to participate in the mediation meeting, and he nodded his head (mouth shut).

In the mediation, Jerry told the other boys about the pain he felt when he urinated. His mother also elaborated on how sad she felt since she had treated these boys well in the past by inviting them to come to their home to do their homework together, or by holding birthday parties for them. She was disappointed that her friendliness may have resulted in her son being bullied. She cried. At this point, Fred suddenly spoke up and soothed her by apologising. They agreed to continue the relationship and promised not to touch Jerry’s privates any more. Jerry’s mother welcomed them to continue to play with Jerry, to come to their home to do homework together, and to have parties in her home.
THE MERIT OF USING RESTORATIVE JUSTICE IN SCHOOLS

In both cases, the mothers of the bullied boys invariably contacted the police, an act that is considered the right course of action to take in the eyes of the general public in Hong Kong. A full investigation was undertaken in the first case, leading to a situation where everyone in the case lost. The use of restorative justice in the second case led to a very different result: the boys, the parents, and the teachers experienced shaming and reintegration, something that did not exist in the first case since all the parties did not have a chance to talk to each other. It is evident that a retributive mind-set of using investigation and interrogation that is open to the public makes the entire event more strained. The retributive act of reporting the case to the police happened in both cases, but the course of action diverted: in case one, a more high-profile action of an open investigation was taken, and in case two, a low-profile private discourse took place. The former exerted pressure on every party involved, and the latter calmed everyone down, revealing what was important to each party, and repairing the harm according to the individual’s needs. Clearly, a high-profile scandal results in a counter-productive spiral of attacks or defences, tearing parties further apart from resolving disputes in many other alternative ways. An obvious difference is the retributive mind-set that is deeply rooted in a system where people’s first course of action in resolving disputes is to report an incident to the authorities. Very often the authorities’ only recourse is to embark on a retributive course of action, something that is very much influenced by a legalistic sense of justice. The educational setting offers a difference course of action as shown in the second case, making restoration possible.

A SCHOOL-BASED APPROACH THAT BLOOMS HOPE

Legal professionals and the police are trained with a mind-set of using adversarial justice, and non-adversarial ways of resolving disputes may be seen as unjustifiable. Like many people in Hong Kong, they believe in the critical importance of open access to courts where essential rights are upheld. It is the duty of those working in the legal profession to protect the interests of their clients, to serve as court officers, to adhere to the code of ethics, and to uphold the rule of law. That induces a culture of “deny and defend” that has persisted and is deeply rooted in legal practices as well as in the eyes of the public as something that is just and correct. Against this professional grooming, legal professionals are limited by their practice code and may not be allowed to attend to wider demands such as psychological healing, underlying interests, or broader societal concerns such as reintegration, shaming, and restoration. The inconvenient truth is that the system, and those who work in the system, may not be aware of how the system fails those who find themselves with no recourse but to rely on it (Boothman, 2013).

In the education setting, reliance is put on teachers, social workers and counsellors in handling conflicts. The practice culture is not tainted by the “deny and defend” norm, nor a “hegemony of lawyering” to focus on legal issues, or concealing certain truths (Parker, 1997, Braithwaite, 2002). Helping professionals are different from those in the legal profession in the sense that they are more mindful of making choices about how to intervene based on their discipline’s knowledge, ethics, and values (Barsky, 2017). Helping professionals, especially social workers, counsellors, and teachers, are more exposed to and mindful of clients’ thoughts, feelings, values, and motivations, and less bound by the rigidity of procedural rules. In general, there exist a kind of self-awareness in helping professionals who have the metacognitive ability to identify intentions, desires, beliefs, and the emotional status of others. They are sensitive to emotional feelings, such as simple likes or dislikes, and feelings of anger, hurt, shame, expressions, and so forth. The value and knowledge here are, to a certain extent, analogous to the mind-set and practice of conflict resolution professionals or mediators in being able to reflect emotions, honouring the value of social justice (and not simply civil justice in the legal sense), and having better listening, questioning, and communication skills. In schools, teachers and social workers are free to expand the issues, explore the concerns and needs, and restoring peace through meeting those needs.

In Hong Kong, although the practice of restorative justice has not been adopted as part of the juvenile justice law, it has been practiced within social work settings especially in schools. The practice is based on an explicit set of principles in youth justice which emphasise strengthening families, holding young people accountable for their offending acts, and making provisions for their development while emphasising the importance of diversion. (Lo, Maxwell, & Wong, 2005; Wong & Lo, 2011). One of the practices of social workers in the use of restorative justice is to support students with behavioural problems that could give rise to criminal behaviour. Wong and Lee adopted a three-tier intervention approach (Wong & Lee, 2005) as a practice guide to establish policies, education, and mediation skills training. The effectiveness was significantly remarkable. It is evident that to some extent social workers have exerted influence and the realisation of certain criminal justice tasks through the provision of restorative justice services (Wong & Tu, 2018). The success is prominent in the educational setting.

The work of some non-governmental organisations which practiced restorative justice in Hong Kong has demonstrated tremendous success considering the lack of a regulatory framework, promotion, and financial input from the administration. The research identified the successful implementation of restorative justice through a social work network
in schools where juveniles’ relationships with and trust of social workers are higher in order to trigger willing participation of those affected, most notably because of their confidence in the workers. The provision of services is made even more convincing when workers, teachers, and even students are trained in restorative justice. One of the success factors identified by the local research team was the need for training (Wong, Cheng, Ngan, & Ma, 2011). Teachers and senior-year students are given professional training in restorative justice, both in knowledge and skills, to deliver the service with remarkable results. These successful implementation studies shed light on how similar approaches could be extended to a wider community without necessitating legal reform. One of the first ways to achieve this is to extend restorative justice mediation training to current mediators, including lawyers. Restorative justice mediation training has been provided in the past through the three non governmental organisations, though the target audience may not have included legal professionals. Since legal professionals are highly respected in Hong Kong, users of these services have a great deal of confidence in them. This trust is much needed to further the promotion of the use of restorative justice.

Understandably, professionals in the legal field may have their hands tied in this respect, since an informal practice of restorative justice will lead to ambiguity in the criminal justice process, and they risk falling into the trap of “perverting the course of justice,” meaning the deflection, frustration, impairment, or hindrance of the ability of a court or tribunal to administer justice in any actual, imminent, contemplated, or possible court proceedings. Thus, before a proper criminal justice system is in place, not much can be expected to occur in the legal field. One of the avenues in promoting the use of restorative justice is the “All School Approach” promulgated by Hopkins (Hopkins, 2004, 2009). The “School Harmonious Project” in Hong Kong has had a similar effect and impact. This could be one of the ways to fill the gap where restorative justice practices exist in a vacuum in the criminal justice system, but is effectively implemented from the outside. The provision of legitimate services through schools and communities will restore the practice on the mediation radar for the effective development of a restorative culture before the time is ripe for a properly administered criminal justice framework. As suggested by Hopkins (2015), the successful implementation of restorative justice in schools will bear meaningful experiences and lessons on how to bring about a culture change in school settings. The experiences and lessons learned are capable of being applied more widely, as shown in Hopkins’ research, with an increasing number of applications in the workplace, including for public sector employees who learn about the use of restorative justice in their daily operations as well as in client services (Hopkins, 2015).

CONCLUSIONS

Retributive justice is rooted in many common law jurisdictions where an unfair advantage taken by the offender must be met by the administration of punishment (Zernova & Wright, 2007). The belief in retribution in upholding justice is the majority view in Hong Kong where the rule of law is regarded as sacrosanct (Lo, 2012). The belief in retribution is correlated to a lower sense of restoration as suggested by the current research, and this may be explained as one of the reasons for the gloomy development of restorative justice in Hong Kong.

In reality, as implied in the research findings, a high sense of retribution leads to a lower sense of forgiveness and fewer restorative acts. The practical reality is that there always exists a struggle between retribution and restoration because the two notions do not exist in a vacuum but against a socio-legal cultural background. The culture of justice that hinged upon the inclusion of punishment cannot be abandoned so readily even when people generally have positive cognitive knowledge of restoration. This is reflected in the research findings that practicing mediators with a higher sense of retribution, as many of them come from a legal background, are less likely to be receptive to the practice of restoration. In Hong Kong, even when restorative justice is seen as a satisfactory way of dealing with offenders, especially young persons, the wave of its growth has subsided because the mainstream justice system advocates for the proportionality of punishment, and restoration is not seen as an option in this regard. In the formal procedural system, stakeholders such as law enforcers and mediators may not be aware of this alternative. The proportion of restorativists is considered to be small, and there is scope for an extended and expanded service, perhaps through its development in the education scene.

The possibility of the state “steering rather than rowing” the justice system (Osborne & Gaebler, 1992) might shed light on the way forward, especially since the time is not yet right to introduce restorative justice law in Hong Kong. A new regulatory regime can be built, not through the direct provision of services, but through the regulation of the private provision of such services (Braithwaite, 2000; Parker, 1999), especially in the education setting, including secondary schools and universities. Instead of a criminal justice system reform, the suggested way forward is to embed an access-to-justice system in schools and universities to deal with all kinds of injustices; some form of monitoring with regard to its practices by independent and competent persons will suffice in examining the effective implementation of the system. Apart from having the advantage of economic efficiency, the regime also self-regulates by not including legal professionals who may tend to adopt the adversarial manner in which they were trained personnel to handle con-
flicts. Lawyers’ positions will be reserved as residual roles of direct state engagement (Braithwaite, 2002). This “responsive regulatory approach” can avoid the quest for radical change or reform at the moment, and place the role of justice primarily in the hands of educators in schools, where it can be more effectively promoted and used in Hong Kong.

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REFERENCES


toral dissertation, University of Bristol.


**Table 1**: Results of Simple Linear Regression with the Dependent Variable Retribution Scale as Predictors of Dependent Variables of RJ Narratives

<table>
<thead>
<tr>
<th>Var.</th>
<th>B</th>
<th>SE B</th>
<th>β</th>
<th>t</th>
<th>p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retribution</td>
<td>-.78</td>
<td>.19</td>
<td>-.28**</td>
<td>-4.13</td>
<td>.000</td>
</tr>
</tbody>
</table>

$R_{adj}^2 = .072$

$Df = 1.206$

$t = 17.03**$

Note: Computed at p-value = .05. ** p < .01.

**Table 2**: Result of ANOVA of Profession Groups with Retribution, Forgiveness, and Empathy Scales

<table>
<thead>
<tr>
<th>Scales</th>
<th>Gp 1 M (SD)</th>
<th>Gp 2 M (SD)</th>
<th>Gp 3 M (SD)</th>
<th>Gp 4 M (SD)</th>
<th>F(3, 204)</th>
<th>p</th>
<th>$\eta^2$</th>
<th>Turkey’s HSD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retribution</td>
<td>10.4 (1.69)</td>
<td>11.83 (2.16)</td>
<td>11.15 (2.19)</td>
<td>10.87 (2.31)</td>
<td>3.96</td>
<td>.009**</td>
<td>.055</td>
<td>Gp 1 &lt; Gp 2</td>
</tr>
<tr>
<td>Forgiveness</td>
<td>19.94 (3.93)</td>
<td>18.7 (4.28)</td>
<td>20.96 (3.59)</td>
<td>21.71 (4.24)</td>
<td>5.30</td>
<td>.002**</td>
<td>.072</td>
<td>Gp 2 &lt; Gp 3</td>
</tr>
<tr>
<td>Empathy</td>
<td>13.83 (3.01)</td>
<td>12.15 (2.62)</td>
<td>13.24 (2.75)</td>
<td>14.05 (3.09)</td>
<td>4.25</td>
<td>.006**</td>
<td>.059</td>
<td>Gp 2 &lt; Gp 1</td>
</tr>
</tbody>
</table>

Notes:
1. Computed using p-value = .05. ** p < 0.01
2. Gp 1 = Legal; Gp 2 = Helping professions (medical doctor, healthcare, social work/counseling, education, clergy, mediators); Gp 3 = Business and Finance (finance/accounting, business management, admin support); Gp 4 = Other professionals (engineering, surveying, police, property, civil servants, IT)
3. In the range of the scale, higher values represent “strongly disagree,” and lower values represent “strongly agree.”
ABSTRACT

In its two thousand year history, Christianity has championed restorative themes. While the Christian scriptures are replete with problematic theological contradictions on this subject, a brief examination of the history of Christian thought reveals that its principles have never wavered from proselytising the underpinning core values of reconciliation and forgiveness. Restorative justice sits well with those who treasure their Christian heritage, despite the prognostications of some Christian zealots who, from time to time, preach retribution over redemptive themes. Hence, Christianity continues to inform restorative practices in many countries of the world. It continues to maintain a capacity to empower and enliven modern-day restorative justice education in both the Western and Eastern hemispheres. Indeed, restorative traditions continue to be taught in schools and universities established by Christian churches across the world, including Asia. This chapter postulates that it may be possible to link Eastern and Western traditions of restorative justice by virtue of the great faith that both West and East have in the practice of Christian education.

INTRODUCTION

The development of the restorative justice movement in the last decades of the twentieth century brought about a renaissance of dialogue between those espousing a religious faith and those pursuing best practice outcomes in criminal justice settings. Given that many of those engaged in the pursuit of integrity and fairness in the criminal justice system have now firmly embraced restorative principles (Friedrichs, 2006; Sullivan and Tifft, 2006), it should come as no surprise that more and more commentators are now finding it productive to explore connections between faith-based justice pursuits and the roots of restorative justice (Hadley, 2001, 2006; Zehr, 2005; Richards, 2009; Burnside, 2007; Dilulio, 2009). In this chapter, I focus specifically on the history of Christian thought in this endeavour, and how it has the potential to underpin restorative justice education.

The term ‘restorative justice’ can be traced back to the mid-1950s when writers Schrey, Walz and Whitehouse (1955) first used these words in the context of a religious duty. Indeed, their point of reference was a Christian biblical one.

Restorative justice alone can do what law as such can never do: it can heal the fundamental wound from which all mankind suffers and which turns the best human justice constantly into injustice, the wound of sin. Restorative justice, as it is revealed in the Bible, alone has positive power for overcoming sin (as cited in Eglash, 1959, p. 116).

The Mennonites are credited with the first official moves to incorporate Christian precedents into justice practices. Mennonites are Christians from the Anabaptist tradition. Their movement is named after Menno Simons (1496–1561) of Friesland (today a province of the Netherlands). In 1974, a victim-offender mediation service referred to as the ‘Kitchener experiment’ began in Ontario, Canada (McCold, 2001), leading to the creation of the Mennonite Conciliation Service which then expanded to the United States (Zehr, 2005), and continues strongly to this day across North America. Victim-offender mediation quickly became a hallmark of the restorative justice movement (Schiff and Bazemore, 2002).

Michael Hadley has described this connection between the history of religious thought and the establishment of the twentieth century restorative justice movement in the following way.
Whether or not the participants in restorative justice recognize the roots of these principles as the first fruits of faith traditions, these principles are nonetheless working through a number of initiatives, social movements, organizations and programs. Some of these are overtly based on faith traditions; others are motivated by principles which the Dalai Lama regards as the outcome of a tacit spiritual revolution (Hadley, 2006, p. 185).

Writers and theorists have found restorative principles in many non-Christian traditions, too, for example, with Confucian concepts such as Shu (do not impose on others what you yourself do not desire), Ren (loving others), and Li (the harmonious ordering of society) (Braithwaite, 2017). Moreover they have been linked to Buddhist and Taoist philosophies, the Code of Lipit-Ishtar from 1875 BCE, and Persian traditions along the Silk Road from China to Europe (Braithwaite and Zhang, 2017). Islamic principles such as azadi (freedom), and the right to forgive that countermands shari’a law (Cyrus the Great 590–529 BCE) have a restorative base (Braithwaite, 2017), as did the Code of Hammurabi (from 1700 BCE) (Richards 2006). Connections have been found with Navajo peacemaking courts (Sullivan and Tifft 2005, p. 58), Pacific Islander justice systems (Maxwell and Hayes, 2006), and the Afghani and Pakistani practice of Jirga (Zehr, 2002).

While some Christian religious movements may have over-stated their credentials in claiming their religious precepts as precipitating elements (Richards, 2005), and would be wise not to claim credit for every aspect of the wide diversity of contemporary restorative justice options (Dignan, 2005, p. 95), the many connections of restorative justice with faith traditions are undeniable. In other words, various and varied faith-based influences have had a strong impact in shaping modern restorative justice practices.

It needs to be remembered that a restorative approach to conflict hearkens back to the time when communities themselves were the brokers of justice outcomes. Private settlements were typically the order of the day, and restoration of property or dignity was the key aim.

All this changed when formal justice systems began to emerge after the 16th century, and the state took over the role of prosecutor. The German Catholic priest turned rebel and reformer, Martin Luther, had a role to play in this. In 1517, Luther nailed ninety-five religious ‘theses’ (demands) to the Castle church door in Wittenberg, Germany, demanding that the church change its practices. He was of the view that salvation came by faith alone, not by purchasing a dispensation from the local priest upon evidence of compensation. Thus, upon his establishing a new (Lutheran) tradition, in defiance of the Pope, private reconciliation between victims and offenders, and private restitution or reparation, were now less likely (Bianchi, 1994).

Victims thus lost their central role in the justice process when formally organised governments emerged and began to assert their authority as the entity responsible for law and order. Crime became a crime against the state; the key features of punishment became deterrence and retribution. Victims were referred to the civil courts, not the criminal courts, for their grievances to be heard (Forrester, 1997).

Hence, a system of criminal justice that endeavours to listen to, and appease, aggrieved parties to a conflict has not been a feature of the common law legal system for centuries. This has led to some problems for dealing with criminal conduct. For crime is, first and foremost, a conflict between people. We rarely treat it as such. Our justice systems typically treat crime as something that has happened between the state and an offender. This has consequences for people who remain in continuous contact with one another, and glosses over the fact that many offenders are victims as well. Moreover, cultural and gender issues are, for the most part, officially irrelevant to criminal proceedings, although they may be important to the circumstances surrounding the incident, and crucial to the ultimate outcome. Restorative justice principles are designed to counter this trend. There is good reason to have faith in their outcomes. A meta-analysis of restorative justice evaluations published in 2014 concluded as follows:

...the literature is replete with reports of high levels of victim satisfaction and feelings that the process is fair. ... [R]esearch conducted to date consistently demonstrates that restorative justice programs work at least as well as formal criminal justice responses (Larsen, 2014, viii).

Christianity and restorative justice Restorative justice advocates and Christian faith communities share many common values and terminology. They both speak of tolerance, respect, humility, compassion, selflessness, and acceptance of the worth of all persons regardless of their conduct. They both encourage ‘reparation’, where healing is sought through recompense by the offender to those harmed (Van Ness and Strong, 1997, pp. 91-92).

They both refer to the possibilities of human transformation, reconciliation, restoration and repentance (Sarre, 1999; Sherman, 2001). Moreover, the importance of reintegration through forgiveness (Arnold, 2003; Braithwaite, 2016) and rituals (Maruna, 2011a; Rossner, 2013) is recognised in both.

[Indeed] most religious traditions ... maintain a deep concern for redemptive rites of passage, providing sophisticated rituals for managing liminal states, washing away ‘sin’ and becoming ‘reborn’ anew (Maruna, 2011b, p. 13).
Moreover, faith-based advocates wrestle with an age-old dilemma. How does one continue appealing to the shred of humanity that lies within those who have committed appalling criminal acts while at the same time demanding responsibility for, and acknowledgement of, wrongdoing? How does one foster healing for the harmed without creating a conflict for offenders who have inflicted the harm? (Sullivan and Tifft, 2005, p. 8).

The start, many assert, comes from recognising spiritual foundations, whether they be Christian-based or otherwise (Chui, Cheng and Wong, 2013). Hadley expresses it thus:

Their principles of accountability, forgiveness, repentance (or radical change of direction), and reconciliation require all the participants in the process to come to grips with fundamental issues: the nature and purpose of human life; the value of the human person; the nature of conflict; and one’s responsibilities toward both society and the common good. Only through personal engagement can one begin to heal the wounds that crime causes (Hadley, 2006, pp. 184-185).

In working through these principles, and touting their credentials, Christians have had to reconcile two rather harsh realities. Firstly, the history of, and support for, violence within Christian scriptures (for example, God ostensibly destroying a cities because of their wickedness) has not always been consistent with a restorative justice paradigm. Secondly, the approaches of some Christians to criminal justice issues may be frustrating to restorative justice ideals, for example, those who continue to use biblical references in order to justify the death penalty.

By the same token, Christianity has a long history of pluralism, diversity and the pursuit of progressive political agendas. In the section that follows, the tensions and contradictions in the historical and contemporary relationship that exists between Christianity and society’s commitment to ‘justice’ generally are explored. They are then considered in the context of the modern restorative justice movement.

CHRISTIANITY AND ‘JUSTICE’

The historical links between Christianity and justice are strong, but laced with contradictions (Broughton, 2009). Sadly, religious intolerance has been the stimulant for some of the worst excesses of punitive systems of control. One does not have to be an historian of the last two millennia to find a wealth of evidence of draconian practices carried out in the name, or with the blessing, of Christianity. These include war, genocide, murder, racism, sexism, slavery, human rights abuses, sectarian violence, pogroms and crusades, the persecution of heretics and apostates, and general discrimination against those who may not share the same tenets of faith as the zealots. In the name of religion, the history of Christianity is punctuated by vengeful, punitive ‘faith-based’ practices. One can immediately think of the cruelty of witch trials, the violence associated with the Reformation, and the widespread use of ritualised torture and public executions (Robertson, 2006, pp. 337-338). As Stephen Carter writes

... there is virtually no evil that one can name that has not been done, at some time and at some place and to some real person, in the name of religion. (Carter, 1993, p. 83)

Some specific instances require brief mention here. On July 22, in 1209, in the town of Béziers in the south of France, a group of Crusaders arrived for the sole purpose of eradicating the religious heresy practised by the Cathars of Languedoc. After the townsfolk of Béziers surrendered to the Crusaders, the leader of the crusading forces was directed to enter the town and kill the heretics. According to contemporary accounts, there may have been up to five hundred Cathars hiding from the Crusaders. The leader asked the Papal legate how he was supposed to distinguish between those who were the heretics and those who were the good Catholics. The reply attributed to the legate was, ‘Kill them all; God will know his own’, and that is what they did. The number of dead that appears in the legate’s report to the Pope was nearly twenty thousand (a story recounted in Gleseson, 2006).

As a haven for Cathars, the French fortified hill known as Château de Montségur gained symbolic and strategic importance in the resistance fight against the Catholic Church and the French forces in subsequent years. In 1241, Raymond VII made a token attempt to capture Montségur, primarily to impress the King and the Catholic Church of his allegiance. At that time Montségur housed about 500 persons. The siege of Montségur, by French royal forces started in May 1243 and lasted for nine months. After the castle surrendered, over two hundred perfecti (the ascetics, the elite of the Cathars) and unrepentant credentes (believers) were burned alive in a giant bonfire on 16 March 1244 (Sarre, 2019).

Travelling forward five centuries to 1692 in Salem, Massachusetts, one finds a similar scenario. As a result of a number of church-run trials of townsfolk accused of witchcraft, twenty people were put to death, at least one by his being crushed under heavy stones. The actions of the zealots testify to the strong belief at the time that frustration of divine purposes required condign punishment (Weisman, 1984). Conveniently for the local authorities, those who were called upon to find evidence of supernatural pacts with the devil were usually the same people called upon to adjudge guilt, and (not surprisingly) the same people who presided over the legal process that determined and carried out the pun-
ishments.

Likewise, when British settlers arrived in the late eighteenth century in Australia, they brought with them ‘guns, germs and steel,’ to borrow a phrase from Jared Diamond (1997), and had few qualms about the drastic effects of their arrival upon the Indigenous inhabitants. International law at the time provided robust justification for the actions of the pre-dominantly Christian settlers against the resident First Nations peoples. According to one of the foremost international jurists of the day, Emmerich de Vattel,

[W]hen the Nations of Europe, which are too confined at home, come upon lands which the savages have no special need of, and are making no present and continuous use of, they may lawfully take possession of them and establish colonies in them... [W]e are not departing from the intersections of nature when we restrict the savages within narrower bounds. (Vattel, 1758/1964, p. 85)

Moreover:

[N]ow that the human race has multiplied so greatly, it could not subsist if every people wished to live after that fashion [as hunters and gatherers]. Those who still pursue this idle mode of life occupy more land than they would have need of under a system of honest labour, and they may not complain if other more industrious Nations, too confined at home, should come and occupy part of their lands. (Vattel, 1758/1964, p. 38)

Mercifully, these eradication activities ended a century later, thanks to an official policy of protection from the 1880s. But along with policies of assimilation (from the 1930s) and integration (from the 1960s) came the widespread, albeit well-meaning, practice of taking so-called ‘half-caste’ children from their families and placing them in ‘proper’ Christian homes. This practice had had the blessing of the colonial Christian churchmen generally. This period of Australia’s history was strongly criticised by the Human Rights and Equal Opportunity Commission (HREOC) following its Stolen Generation Inquiry (HREOC, 1997). The policy only ended officially in 1970.

There is an irony in the historical record. At the same time that the practices described in the Stolen Generation report were continuing, many Christian-based Aboriginal ‘missions’ were providing a safe haven for Aboriginal groups from the massacres that were occurring not infrequently (Edmonds, 2007). Moreover, many Aboriginal languages have survived to this day only because religious texts needed to be translated into the local dialect. Indeed, some branches of Christianity such as Unitarianism, along with the Quakers, the Hutterites and the Mennonites, have a long history of championing the preservation of indigenous groups, along with allied goals such as pluralism, diversity and the pursuit of progressive political agendas. Jesuit and Kairos traditions, too, have strong connections with prison ministries (Clear, Hardyman, Stout, Lucken and Dammer, 2000; Cullen, Pealer, Santana, Fisher, Applegate, and Blevins, 2008; Giordano, Longmore, Schroeder, and Seffrin, 2008; Dodson, Cabage and Klenowski, 2011; Kewley, Larkin, Harkins and Beech, 2016; Roberts and Stacer, 2016). Prison Fellowship International, a faith-based organisation, has been delivering the restorative justice-inspired Sycamore Tree Project for two decades across thirty-four countries, staffed by Christian volunteers (Anderson, 2018). These curious juxtapositions are indicative of the complexity of both historical and contemporary Christian policies and practices.

SCRIPTURAL REFERENCES

There was, and is, no shortage of Christian scriptures, especially in the Hebrew Testament, that provide sources and succour to those looking to justify vengeful practices (Stanley, 2006; Sarre and Young, 2011). Ancient prophets, apostles and sages alike have portrayed God in Christian scriptures as a vindictive, retributive and vengeful torturer. Indeed, it is somewhat remarkable that faith-based advocates have successfully aligned Christian principles with restorative justice given these scriptural admonitions. There are, however, many scriptures that uphold ‘restorative’ themes, found in the paragraphs that follow.

Some key themes emerge from the Hebrew Testament. Reconciliation is the purpose of the Day of Atonement celebrated as Yom Kippur, as described in Leviticus chapter 23. Moreover, restoration of property is the purpose of the Jubilee principle, described in Leviticus, chapter 25, where all debts are set aside in the fiftieth year, and all slaves are set free. The Year of Jubilee is designed to bring mercy, healing and new life, and to allow a fresh start, away from generational entrapment in socially unjust scenarios. The term widely used by Jews and non-Jews alike, shalom, means ‘peace’ combined with ‘right relationships’ (Bianchi, 1994, p. 43; Townsend, 1994, p. 136). God is identified in these pages as compassionate and patient. In Leviticus Chapter 19, one will find the following; ‘[y]ou shall not take vengeance or bear any grudge against the sons of your own people, but you shall love your neighbor as yourself: I am the Lord.’

Likewise, there is a long history of reconciliation and restorative themes in the New Testament. The most obvious is the ‘turn the other cheek’ admonition of Matthew chapter 5 that is followed immediately by the admonition to ‘[l]ove your enemies and pray for those who persecute you, so that you may be sons of your Father who is in heaven’, a text
Furthermore, Paul’s Ephesian letter, chapter 2, reminds readers that Christ breaks down walls that separate people and that all people are one in Christ. The second letter to the Corinthians speaks of forgiveness for an offender, namely ‘[f]or such a one this punishment by the majority is enough; so you should rather turn to forgive and comfort him, or he may be overwhelmed by excessive sorrow. So I beg you to reaffirm your love for him’. Romans chapter 12, continues this theme. It reads ‘[r]epay no one evil for evil, but take thought for what is noble in the sight of all’. Reconciliation was a strong theme in pre-Victorian England. For example, one was not permitted to take the Eucharist without formally reconciling oneself with others who may have been wronged by the penitent.

**CONTEMPORARY CHRISTIANITY AND RESTORATIVE JUSTICE**

Today, the focus on reconciliation in Christian scripture is synergistically aligned with the restorative justice approach that Hadley (2006) sets against the individualistic and fragmentary nature of secular culture. Reintegration, says Hadley, presumes that the idea of collectivity must prevail, and that damage and consequent healing are not just individual experiences. Despite the Christian rhetoric that persists with notions of the ‘saved’ versus the ‘unsaved’, there is still an underlying awareness of the importance of community beyond individualization. Viewed in this light, Christianity is inherently restorative.

There is not, however, total agreement on this proposition. Some commentators allege that Christians may offer such charity selectively:

> Even after the explicitly religious penal models of the penitentiary movement have faded into history, it was (and is) widely assumed that the punishment of the criminal is in some way a holy duty ... And where Christians have been concerned with justice, it has all too frequently been the selective vengeance we have all sanctioned as retribution, as opposed to the all-encompassing righteousness which is known as justice in the Bible. It is not at all unusual to hear a Christian minister decry the rising tide of crime and immorality in print or in the pulpit, but it is rare indeed to hear a Christian minister exhorting the faithful to actually dare to love their enemies. (McHugh, 1978, p. 133)

Indeed, retribution has been at the core of Western justice practices, a fact that Allard and Northey (2001) identify as providing an awkward alignment with early Christian understandings of justice. They point out that retribution emanates from the Greco-Roman tradition of justice. On this view, crime is no longer the action of one individual against another; it is against the state itself.

There are some strong examples, however, where a restorative approach has won the day, politically speaking. A decade ago the South African Truth and Reconciliation Commission (Tutu, 2016) was chaired and championed by Archbishop Desmond Tutu, an Anglican cleric. Whatever one thinks of the success or otherwise of the Truth and Reconciliation Commission (Kashyap, 2009), Archbishop Tutu’s leadership ensured that a restorative justice approach prevailed throughout that process.

Perhaps one of the more graphic examples of a restorative response on the part of a Christian community was the Amish reaction to the murder of six young girls when a gunman attacked their rural United States school in 2006. Rather than calling for judgement on the gunman, or even simply getting on with their own grieving and ignoring the perpetrator, this community reached out to the gunman’s wife and family, offering sympathy, compassion and even material support in their loss (Kraybill, Nolt and Weaver-Zercher, 2007). It was a move of such a radical nature that some commentators even perceived it as verging on injustice towards the victims (Gottlieb, 2006). Be that as it may, the Amish response demonstrates that it is possible for communities to implement successfully an alternative to a retributive approach as a means of restoring moral balance (Brunk, 2001).

Finally, one should, in this context, mention the death penalty, a punishment clearly anathema to restorative justice. While it is true that there are many scriptures that condone capital punishment, other scriptures speak of forgiveness and divine grace in response to law-breaking of the most serious kind (Conover-Williams and Chang, 2016). Paul’s letter to the Romans reminds readers that they are not to take revenge ‘but leave it to the wrath of God’. In summary, Christian scriptures are not definitive on the issue of capital punishment.

This issue arose after the 1995 Oklahoma City bombing perpetrated by Timothy McVeigh who was executed for this crime in June 2001. Bud Welch’s daughter, Julie-Marie, was killed in the bombing. He rejected the ‘eye for an eye’ admonition that appears in the Hebrew Testaments of Exodus (21:24), Leviticus (24:20) and Deuteronomy (19:21), preferring the New Testament’s Matthew (5:39). ‘If any one strikes you on the right cheek, turn to him the other also’. Here is what Bud Welch said on this subject some years after the event:
To me the death penalty is vengeance, and vengeance doesn’t really help anyone in the healing process. Of course, our first reaction is to strike back. But if we permit ourselves to think through our feelings, we might get to a different place. (Interview in a Time magazine article quoted in Wallis, 2005, p. 302, emphasis added)

No one knows what it is like for a member of one’s family to become a victim of a serious crime until it actually happens. Vengeance is an entirely understandable reaction (Gorringe, 1996; Hanslmaier and Baier, 2016), but as US evangelist Jim Wallis reminds his readers (2005, p. 49), victims and their advocates are being called upon to ‘do the harder, more creative, and ultimately more prophetic work of finding and offering alternatives’.

The diversity of Christian denominational stances on the death penalty and on justice issues generally reflects this lack of certainty.

There is no doubt that these are difficult issues for justice policy-makers and elected representatives. Ironically, one will often hear a spokesperson on justice issues saying that he or she had to make some ‘hard choices’, by which they usually mean raising penalties or introducing a new criminal offence. Arguably, that approach is a relatively easy one. Much harder is the task of crafting criminal justice policies that recognise the needs of victims and offenders alike, and strike a balance in government expenditures so that the correctional budgets do not swallow up the budgets of those portfolios, such as education, mental health and employment, that have been identified as underpinning effective ‘social’ crime prevention (Sarre, 2009). It is all too easy, in the absence of sound development of these responses, to make poor choices regarding scarce public resources (Brown, 2010) and to foist today’s crime and disorder problems on to future generations.

In sum, the restorative justice movement has spawned faith-based calls for its practitioners to seek to counter social inequities and injustices that can lead to criminal behaviours. Christian restorative justice advocates can and regularly do align themselves with social policy initiatives that focus on education, employment, housing, and the provision of welfare designed to reduce the flow of offenders coming into the criminal justice system. Patching up the wounded, and ministering to both victim and perpetrator, are not difficult tasks for those committed to holistic societal healing, and sit well with restorative principles (Hadley, 2006).

The educational opportunities for restorative education in religious settings across the world have been alive for four decades. The pace-setter has consistently been the US-based Eastern Mennonite University and its programs have spawned developments throughout the world, including across Asia. For example, the Mennonite-sponsored Zehr Institute for Restorative Justice initiated restorative education programs in South Korea in the late 2000s after the Seoul Juvenile Court established a victim-offender reconciliation program and after corporal punishment had been banned in all schools from 2011. Since 2015, Restorative Discipline training has increasingly allowed its principles to be adopted by the Korean Provincial Offices of Education as an official approach to school discipline. In addition, the Zehr Institute reports that the Northeast Asia Regional Peacebuilding Institute (NARPI) has offered a restorative justice course every year since 2011. In Australia and New Zealand, restorative justice programmes have been championed in a wide variety of educational settings (Varnham, 2008) including Catholic educational settings (Victorian Association for Restorative Justice, n.d.) But the landscape for connecting religious education and restorative practices is not one that is easy to find across Asia if elsewhere. Mine is a clarion call to those employed in the religious education space: if there is to be restorative practice education, it is natural fit for Christian education.

CONCLUSION

Christianity has a complex and contradictory heritage with regard to restorative justice practices and perspectives. For centuries, Christians were happy to embrace scriptural interpretations that permitted, condoned or encouraged slavery, racism, ethnic cleansing, the disempowerment of women, homophobia, and the denial or dismissal of Indigenous beliefs and theologies. All of this was done with the blessing of the legal, political and ecclesiastical hierarchies of the day.

There are, however, Christian scriptures, beliefs and practices that have empowered many churchgoers to be at the forefront of a pattern of change: restorative justice processes. Modern Christian-inspired justice approaches are now championing forgiveness, mercy and the worth of all persons regardless of the acts that these persons may have perpetrated. There are a growing number of voices speaking from Christian pulpits calling for a greater commitment of justice policy-makers to reduce the amount of collateral damage caused to offenders, society-at-large and victims by traditional justice processes. Education and training leads and follows these voices.

Not surprisingly, many faith-based justice practitioners can be found at the forefront of programs designed to reconcile offenders with those whom they have harmed. Faith-based justice practitioners continue to seek opportunities to empower communities to ‘to help people develop the tools and resources needed to solve problems themselves, to
develop a sense of control over their own lives, and to see those with whom they are in conflict as real persons with real human needs’ (Sullivan and Tifft, 2005, pp. 94-95).

I am of the view that consistently linking restorative justice back to its religious and philosophical roots enhances its credibility. In the many schools across Asia and elsewhere that have been established (and continue to run) with Christian values at their heart, the principles of restorative justice are a natural fit. Viewed in this way, Christian education (which is widely available across East and West) could be seen as a strong bridge between restorative justice education across the West and the East.

At the very time in the history of the world when ancient traditions, religions and philosophies are being re-born and re-vitalised, it is imperative that we explore, celebrate and teach the way in which many of those traditions used restorative principles and practices successfully for millennia.

There is little doubt that the Christian sojourners pursuing restorative justice initiatives will continue to contribute strongly to the restorative justice movement well into the future, and that their zeal will continue to inspire faith-based, if not secular, restorative justice advocates alike in a variety of settings including our schools and universities, faith-based or otherwise. People of all faiths, not just Christianity, are and should be in the forefront of those who seek to build upon and emphasise the religious notions of restorative justice, which has at its heart the ideas of reconciliation, forgiveness and repentance. People of faith have every reason to place their faith in restorative justice mechanisms today.
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“It is arrogant indeed to think that schools in the west have all the answers and we are somehow more advanced in our thinking and practice. The scope of the chapters in this book travails many of the issues that face schools and systems everywhere. This book is highly recommended for anyone practicing, studying or legislating restorative justice in educational settings. Restorative practice is who we are, not what we do!”.

Margaret Thorsborne, Restorative practitioner, trainer, facilitator and author.