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Editorial

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Editorial

Dear members and friends,

For some of you this issue may come as a surprise — an EFRJ newsletter that questions and perhaps even criticises some of the current practices of restorative justice. It may not be what we would first expect from such a newsletter, but isn't it sometimes necessary to look back, reflect critically and be humble enough honestly to evaluate our work and philosophy in order to learn, grow and develop our work?

Is it possible that as advocates for restorative justice, in whatever capacity, as activists, practitioners or researchers, we sometimes have our blind spots and are quick to react harshly to criticism that comes from people who do not support what we so passionately promote? Wouldn't it sometimes be better to be silent, just listen and try to understand why others are opposing restorative justice? Maybe sometimes their arguments are not so far-fetched and even contain a grain of truth? Of course, we believe in the many possibilities that this philosophy of addressing harm offers. We are quick to insist on the right of restorative justice to be recognised as a fruitful practice — and we may even consider it more fruitful than some other methods of conflict resolution. But, doesn't such insistence also carry risks?

When we are too sure of something, we easily become blind to its weaknesses. We start to insist on certain things that seem fundamental and forget or ignore the fact that restorative justice, like any other practice, needs innovation and development. It is important to be humble enough to allow critical reflection, to be open to constructive criticism and to respond to it without bias.

What worked in the past may not work today — and more changes may be needed tomorrow to meet the needs of the people we serve. We may need to let go of certain things and 'kill our darlings.' An open mind is required to consider approaches or methods that may seem very new and unusual, but could serve to make restorative justice accessible to more people and make it flexible and responsive to the needs of those who are affected by harm.

Courage is often required and we need to step out of our comfort zone. The aim is for restorative justice

to serve the parties and not the practitioners. Therefore, we need to ask ourselves what changes might be needed to adapt restorative services to the needs and challenges of the times we live in, and consider what traditions might need to be abandoned as they serve us and not the parties. Are we open to allowing and even welcoming change in our practice if it ultimately benefits the people we serve, or do we prefer to stick to our familiar practices because they suit us better and carry less risk?

This series sets out on a venture of constructive critical reflection on the current practice of restorative justice and asks experts to offer their thoughts and insights from very different perspectives. As readers, we may come from a very different background and not agree with all of it. Nevertheless, we hope that the texts will inspire and encourage you to ask critical questions and be open to new ideas.

So we invite you to embark on a journey of reflection with this issue, which we hope will provide some 'food for thought.' The first article, written by Siri Kemény, offers some critical reflections on the role of the RJ facilitator/mediator. Her suggestion to 'consider training in emphatic exploration of the other's point of view — in the meaning of seeking understanding and respect from within' seems so appropriate if one allows for critical reflection on restorative justice practice. Could it not be that this is exactly what we, as restorative justice advocates, desperately need, not only to defend our practice, but also to strive for understanding of others' points of view? The following article by Tim Chapman continues with a critical assessment of restorative justice practice, this time in relation to children and young people. He concludes that restorative justice is

compatible with children's rights — but not automatically. The newsletter continues with a look across the Atlantic to Elmira/Kitchener, the place that was so crucial to the awakening of the restorative movement in the 1970s. Judah Oudshoorn, who lives in the area, raises further critical questions to contemplate as he looks back over nearly 50 years of restorative justice development in Canada. The newsletter is rounded off with an interview with David Gustafson, one of the early pioneers in implementing restorative justice after serious harm. In his review of decades of restorative justice practice, he shares his concerns and hopes.

We hope you enjoy the diversity of these reflections as much as we do and wish you happy and colourful autumn days.

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The mediator — some critical reflections

I am grateful for the open invitation to share some critical reflections in the EFRJ Newsletter upon a freely chosen aspect in restorative justice. I feel humble approaching the task, as the world is rapidly becoming ever more complicated and confusing. It makes me wonder where to start. How can restorative justice find a sensible role in a world of unseen rapid change? What seemed reasonable yesterday is not valid today. Some time ago I expressed a hope for restorative justice to become one of the more useful tools to cope with the dangers of climate change and environmental protection. But I am not sure if it is the right trail to pursue in this small piece of writing. Will it be helpful to fly that high, to grapple with such lofty questions? I have concluded that it will not. I will rather make an effort to bring some grounded elements for discussion into what I choose to name the 'every-day life of restorative justice,' by taking a closer look at the mediator.

There are variations in how restorative justice is organised and practised all over Europe and beyond. A central point is whether the mediator is a professional, a lay person or a volunteer — the difference between a lay person and a volunteer being that the former does receive a small fee, while the latter does not receive any payment at all. In Norway, where I come from, the mediation service has lay mediators. This is even put down by law. In the Nordic countries the mediation services have some similarities, particularly the Finnish system coming close to the Norwegian. Also Denmark looked to Norway when they established their mediation system. Nevertheless, I hope that my reflections on the mediator in restorative justice will give some food for thought no matter which country the reader comes from and whether the mediator is professional or lay.

For the sake of convenience, the notion of 'mediator' as it is applied here also includes the facilitator in restorative justice processes like for instance

circles and conferences.

You know when a teacher is really good, but it can be hard to pinpoint just what makes her that good.

What kind of a person should the mediator be? What skills, knowledge and competencies are ideal for being a mediator? And what is the extra that makes a mediator really good or excellent? This 'extra' is of a kind that is hard, if not impossible, to express in words. I will give you an example to illustrate. You know when a teacher is really good, but it can be hard to pinpoint just what makes her that good. Yes, it can be because she is good at seeing each pupil, but why is just she good at it, but not her colleague? I believe it is something about a personal touch, a talent that has been nurtured and developed. Then comes the big question: how is it possible to take the agreed restorative justice values and principles that set the standards for the restorative justice

process and transfer the standards properly into what we should expect from the skills and competencies of a restorative justice mediator? What kind of a mediator should we aim for, to support the fulfilment of the restorative justice values in the restorative justice process? Important: can it be done also to preserve and inspire the out-of-the-box creative new thinking that has characterised the field? It is almost a law of nature that the freshness that lies in something new will vanish or fade as time goes by. I will contend that one of the hallmarks of the restorative justice field has been, and should continue to be, the ability and will to preserve the urge to new thinking so as to raise the quality and develop and refine restorative justice solutions.

All these different questions have been more or less on my mind during the three decades I was actively working with restorative justice. Some are still there, but a whole lot has changed, and I see some things differently now. This change I believe must be understood in light of the changes in the role and position of restorative justice in the criminal justice system, but maybe equally as much as a result of how the world has changed.

My reflections are of course mainly influenced by how restorative justice emerged and developed in Norway. The system with lay mediators stems from Nils Christie's critique of the justice system, claiming that the legal experts, the judiciary, stole the conflicts from the people. I will add that in Norway we have a tradition of involving citizens in different societal functions, which means that this way of establishing restorative justice harmonised with a well-known cultural tradition. Such a kind of involvement of the citizens can have the function of societal glue, but it should not be underestimated that it is also assumed to be cost-effective, which is in the interest of the government.

But as the referred cases moved in an ever more serious direction ... it became a worry how to secure proper care of the victim and the offender ...

In the early days, the cases that were handed over for mediation were simple. A youngster that had been caught for petty theft or vandalism could very well be brought together with his victim by a lay mediator that had participated in a short training on mediation. But as the referred cases moved in an ever more serious direction, like for instance violence of all kinds in intimate relationships, it became a worry how to

secure proper care of the victim and the offender, how to secure a proper restorative justice process. I will argue that a precondition for mediating in such cases is that the mediator has certain qualities and qualifications that can be achieved only exceptionally by lay mediators. Two important reasons for this are lack of time for proper training and lack of sufficient mediation experience. According to me, mediating in cases pertaining to violence of any sort presupposes a deeper understanding of the human mind and social interplay. A certain awareness of one's own psychic or emotional experiences or traumas is also important, so as not to let them influence the process between the parties. The mediator must of course have a general understanding of the phenomenon of violence, its dynamics, its effects and possible risks in a restorative justice process. Mediators in serious cases, where personal integrity has been offended, must be properly trained to be able to contain the process between the victim and the offender.



Siri Kemény

The framework conditions for the lay mediator system necessarily differ from a system with full time mediators on certain points. It is a pivotal question if there is sufficient space and time for proper and sufficient training, mediation practice and supervision within this framework, as it is inherent in the lay model that the mediators only have restricted time to spend on mediation. This means that the training, mentoring and supervision also will have to be restricted. As for supervision, I will argue that it happens too seldom, and it is mostly done by full time advisers who often do not have substantial mediation practice, because it is defined by law that mediation must be done by lay mediators who are appointed for

the task. If an adviser wants to mediate extensively, it has to be done on top of the normal job as an adviser, and it will not be counted as working hours, but be paid with a small fee, like the normal lay mediators. This small fee is also a problem that the mediators have been pointing out for years. The smallness of the fee makes them feel not properly valued, that society does not appreciate the contribution they make as citizens.

There are of course also strong points for a lay system. I find it an asset that mediators can be recruited amongst people from all walks of life. It is an expression of a sound democratic value, and lay persons or volunteers can contribute to spreading the understanding of the restorative approach in the community and in society. It is not necessary to be a social worker, a psychologist, a lawyer or a teacher to become a good mediator. To have a professional background as mentioned is no guarantee to become a good mediator, and it is an enrichment to have mediators with widely different life and occupational experiences amongst them.

I see mediation partly as a craft, partly as an art.

What is needed, then, to become a good mediator? Can it be learnt? The answer is of course ‘yes.’ But, as mentioned, talent helps. And let us also admit that some people are not suited for the task. Like with the teacher I mentioned, some mediators are brilliant, some are just good, or tolerable. But what all mediators have in common is that restorative justice — mediation and facilitation — must be learnt, even if you have a natural talent for it. And to become good, it must be practised extensively. An inherent part of the practice should be regular critical reflection upon practice, with colleagues, with a supervisor. I see mediation partly as a craft, partly as an art. During a course of training for becoming a mediator, the candidate should be mentored or supervised by a senior mediator who is qualified also as supervisor. But also experienced mediators should have access to supervision on a regular basis, to counteract ‘blindness,’ so as not to be stuck in nonfunctional patterns. This will contribute to keeping the new thinking alive.

Why do we in Norway make such an effort to adapt the lay system also to fit the handling of demanding criminal cases with highly vulnerable parties?

People within the mediation system mostly believe in the model based on lay mediators, and for good reasons. It must be admitted that it has done the job fairly well until the demanding violence cases landed

on the lay mediator’s plate. But I fear that the lay system with its present restrictions will not be up to facing today’s challenges in applying restorative justice with serious cases like for instance sexual and other intimate violence, serious discrimination or racism, not to speak of extreme radicalisation, just to mention some. I think also the general understanding of cost-effectiveness is, as always, a winning argument. But I am not convinced that a change of the mediator necessarily will be more expensive than the present lay model.

Looking back, I must say that Nils Christie was a blessing for the Mediation Service to come into existence. He was an important corrective to more aspects of the justice system. But on the other hand, I will contend that after some decades it would have been right also to have a critical look at the ideology that formed the base of the Mediation Service.

I nevertheless find it important to discuss if common sense and restorative justice values and principles are sufficient for delivering satisfying restorative justice services.

If I am right or not in my assumption that the framework conditions of the lay model are a hindrance to an optimal restorative mediation process, I nevertheless find it important to discuss if common sense and restorative justice values and principles are sufficient for delivering satisfying restorative justice services. In addition, I think it would be appropriate and interesting to look at it also in the light of conspiracy theories becoming mainstream, and thus having become part of ‘common sense.’ Can common sense still be trusted?

What can be a satisfying answer to the demands that restorative justice in general and the mediators in particular are facing? Can it be done without moving towards a new, protected, profession, with a monopolised right to mediate? And can the tendency to instrumentalisation of the restorative process be counteracted, protecting the ‘soul’ of restorative justice? I do hope so, and I hope that the European Forum for Restorative Justice will take on the task and offer a forum for discussing the mediator with all her facets.

I will leave the reader with some preliminary conclusions, preliminary because they are meant to be discussed further.

- The recruitment of mediators must be broad, to secure a wide range of knowledge within the group of mediators.

- The mediator must have restorative justice mediation as a main occupation. This will ensure that the mediator will have sufficient time for practising extensively, for training, supervision and critical reflection upon the mediation practice.
- Critical reflection as part of the mediation practice will contribute to keeping a fresh look at the practice and thus counteract that the mediator becomes set in her ways.
- Proper and sufficient training to become a mediator of quality must be secured. No shortcuts.
- Sufficient and qualified mentoring and supervision must be part of both the training and the follow-up of the mediators. Supervisors must be experienced and active mediators and must also have the necessary qualifications for being a supervisor.
- Training, critical reflection on the mediation practice, must aim at preserving the ability to out-of-the-box thinking and also contribute to saving the soul of restorative justice.
 - ‘The soul of restorative justice’ can have more connotations. For fun (or maybe not only), why not discuss also this? Does it mean that all the restorative

justice values and principles are honoured, or is there something more to it? Can sincerity and candour be kept alive when practising restorative justice (the opposite of giving in to instrumentalisation)? Preserving an open mind? What would ‘the soul of restorative justice’ mean to policy makers and to researchers, if anything?

- Idea: training in emphatic exploration of the other’s lookout — meaning to strive for understanding and respect from within — as part of the training for the mediators. The idea is inspired from religious science, and it should be explored if it can be a useful aspect to include for the mediators as mental ballast in facilitating the reciprocal understanding between parties.

Thanks go to my former colleague and good friend Helene Støversten for constructive comments and questions during the writing process. The responsibility for the content is nevertheless mine, and mine alone.

Siri Kemény

Siri Kemény has worked with restorative justice for more than three decades including as Director, National Mediation Service (Konfliktrådet), Norway and Chair, European Forum for Restorative Justice.

Restorative Justice with young people is not perfect — so, its quality must be protected

This article is based upon a chapter that I wrote in a book edited by Annemieke Wolthuis and myself.¹ The book is about the relationship between restorative justice and children’s rights. It attempts to have a global scope. It reviews international documents and describes legislation and practices in Europe, Africa, Asia, Latin America, North America, Israel and New Zealand. Readers will recognise the names of authors who are active in the European Forum for Restorative Justice. Most of the chapters demonstrate the compatibility between rights and restorative justice and the importance of a rights approach both in countries initiating restorative justice and in countries developing restorative justice beyond its origins within the criminal justice system.

My interest in examining the flaws and failings in the practice of restorative justice was stimulated by the research of a PhD student, Olivia Barnes, at Ulster University who found that restorative conference

practices in Northern Ireland displayed a creeping McDonaldisation which subverted their espoused restorative values and principles.

How restorative justice practices can steal the rights of children

Even though restorative justice claims to be inspired by indigenous practices, it has not been effective in countering the economic and social disadvantages of indigenous young people in the New Zealand and Australian youth justice systems.

Article 2 of the UN Convention on the Rights of the Child (United Nations, 1989) is designed to protect children from discrimination whatever their ethnicity, sex, religion, language, abilities or any other status, whatever they think or say, whatever their family background. Even though restorative justice claims to be inspired by indigenous practices, it has not been effective in countering the economic and social disadvantages of indigenous young people in the New Zealand and Australian youth justice systems. Family Group Conferences, based upon indigenous concepts and practices in New Zealand, have been found to be less effective in meeting the needs of young Māori people.

Article 3 of the CRC places primary consideration on the best interests of the child. Young people's participation in restorative justice has been criticised on the grounds that their immaturity and stage of cognitive development disadvantages them in a process which demands verbal ability, empathy and concentration. For some researchers, the best interests of the child is incompatible with the restorative making oneself accountable to the person whom one has harmed as it may aggravate the symptoms of trauma through the stress of disapproval and shame.

Article 12, which refers to respect for the views of the child, would appear to be safer ground for the restorative process. This provision means that not only should there be opportunities for children to express their views on matters that have an impact on them, but that their views must be heard and taken seriously.

Barnes (2015) observed young people in Northern Ireland feeling vulnerable and ill-equipped to express their views in a 'room full of adults' (Haines, 2000). Consequently, they can be intimidated, orchestrated or coerced into doing what is expected of them. On observing restorative conferences, it often seemed to Barnes that the process was scripted to lead to an apology and to agreeing to a predictable reparation plan. The control of the facilitator over virtually all the exchanges has been confirmed through research applying the discipline of linguistics to the process of

the restorative conference. While carers are invited to prevent the young person being dominated, they may themselves dominate the process of dialogue by talking excessively on behalf of their children. Active shaming of young people has also been observed in restorative processes.

Often young people are not fully prepared to participate in a restorative process and consequently struggle to give a good account of themselves.

Often young people are not fully prepared to participate in a restorative process and consequently struggle to give a good account of themselves. As a consequence, their meaning may be misinterpreted, and their sincerity may be distrusted. Partly this may be due to language and communication problems which tend to be more prevalent among disadvantaged young people who offend and partly because the dialogue process tends to privilege educated middle-class styles of communication.

Reparation is a key outcome for restorative justice. In many cases when reparation is part of an agreed plan, the young person is referred to a pre-existing reparation project rather than one designed to meet the victim's or community's needs arising from the harm. As a consequence, the value of reparation to victims and communities is diluted.

Many schemes report a very low level of direct victim participation in restorative processes. This can lead to practitioners constructing surrogate victims or imaginatively describing the impact of the offence without any direct evidence. Such tactics can take the process away from its restorative and reintegrative principles toward shaming and stigmatising the young person.

Restorative justice processes may reconstruct or distort people's narratives to make them fit a simpler or thinner restorative narrative. Professionals, even when they are engaged in restorative justice, find it difficult to recognise and correct the biases that originate in their position of relative power and privilege. As the cultural and social theorist, bell hooks (1990) wrote:

No need to hear your voice when I can talk about you better than you can speak about yourself. No need to hear your voice. Only tell me about your pain. I want to know your story. And then I will tell it back to you in a new way. Tell it back to you in such a way that it has become mine, my own. Re-writing you,

I write myself anew. I am still author, authority. I am still the coloniser, the speaking subject and you are now at the center of my talk.

Whoever has power over the narrative is able not only to control the process and its outcomes but also to conceal their power and control.



Tim Chapman

While the practices described in this section are not typical of all restorative practice, how do such abuses emerge from a process of justice which places such value on enabling participants to tell their story in their own way?

What causes these abuses?

Restorative justice is still a minor and, in its modern form, a relatively new field of practice. To survive and grow it must seek and gain the support of much larger, more powerful and established systems such as the criminal justice system, social services and education. Inevitably, efforts to promote restorative justice and to gain the authority and resources to practice it lead to a degree of institutionalisation of restorative practices along with compromises over values, aims and processes. Furthermore, the bureaucratic, organisational and efficiency needs of the institution may predominate over what matters to the people who choose to participate in restorative processes.

Professional culture, whether it is derived from a criminal justice, teaching or social work perspective, can dilute and even distort the values and principles of restorative justice. This way of thinking can determine what types of crimes (generally low-risk) may be appropriate for restorative justice, what types of offenders and victims should be permitted to participate in restorative processes and what types of outcomes are acceptable. Each of these decisions is an exercise of power which dilutes the rights of people to have a voice about issues that affect them.

The importance of values and standards

It seems clear that, to use Piaget's concepts, restorative justice has often been assimilated by systems rather than being accommodated within them. Assimilation refers to how new information or knowledge is made to fit within existing discourses. Accommodation requires existing cognitive and cultural discourses to make space for a new approach to operate effectively. Accommodating restorative justice implies boundaries which protect the values of the restorative process.

The value of solidarity leads to the conclusion that no matter how estranged or hostile the participants are, they need to collaborate to repair the harm and to move on in their lives.

Restorative justice should not be defined by a specific method, process or model of practice. It is defined by the practical application of key values and supported by evidence-based principles of practice. The value of respect for human dignity leads to the premises that the participants are experts on their lived experience and that they are capable of participating in a process designed to address a harmful incident that has had an impact on the quality of their lives. The value of solidarity leads to the conclusion that no matter how estranged or hostile the participants are, they need to collaborate to repair the harm and to move on in their lives. In restorative justice, the potential conflict between these values is resolved through a process of justice through accountability that is based upon the value of truth and the practice of facilitated dialogue.

Gearty (2006) distinguishes between rights which protect people from oppression and those which support human flourishing. This is an important distinction as rights can create boundaries within which

restorative processes can be accommodated. Rights resonate with Braithwaite's constraining standards which provide participants with protection from domination by others.

Two children's rights can act as filters through which children can enter the restorative space. *The principle of the best interests of the child* should ensure that children are fully informed about the restorative process in ways that they understand, so that they can make a free and informed choice whether to participate. It follows that the process must be designed and facilitated so that it is safe, avoids degrading or humiliating treatment and addresses the needs of the child arising from the harmful incident. The principles of voluntary consent to participation and confidentiality are also important protections of the best interests of the child.

Restorative justice should not absent itself from harms caused by imbalances of power.

Protection from discrimination is a right that reparative justice must pay much more attention to. It means that the restorative process should not only be inclusive, flexible and adaptable to diversity including gender, sexual orientation, race, ethnicity, religion, language, class, disability and domestic circumstances, but also should be designed to counter systemic discrimination. Restorative justice should not absent itself from harms caused by imbalances of power. It should actively seek ways of rebalancing power and restoring just relations.

Other standards are required to activate the restorative process through the participants' engagement in dialogue. Such standards are guided by Article 12 (respect for the views of the child), and Articles 39 and 40 which emphasise the dignity of the child and recovery from harm and reintegration. These rights promote the flourishing of the child, rather than protection, by animating a process of justice based upon accountability, truth and dialogue.

This shifts the power to the people whom restorative justice is designed to serve.

Braithwaite (2002) asserted that quality assurance is more important than training. Standards of practice balance the protection of the integrity and effectiveness of restorative justice with the need for support from the system. They should be framed from the participants' perspective — what they can expect

from a restorative process and what the system has a responsibility to assure. This shifts the power to the people whom restorative justice is designed to serve.

In the very near future the European Forum for Restorative Justice will publish a manual on values and standards for the practice of restorative justice designed to support countries and organisations to draft their own standards.

Children's rights are compatible with restorative justice. This compatibility is not automatic. It needs to be based upon an awareness of how the values and strategic priorities of systems can influence practitioners to abuse or neglect children's rights. To resist this tendency, restorative justice must be accommodated within systems rather than assimilated by them. The tensions between children's rights and the values of restorative justice can be resolved through distinguishing rights designed to protect children and those that promote their active participation in society. In the final analysis, the responsibility to deliver high-quality restorative justice that is congruent with children's rights lies with practitioners who are competent and accountable for their standards of practice. If these conditions can be put in place and sustained, we can state more confidently that children's rights should include the right of access to high-quality restorative justice.

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Notes

¹A. Wolthuis & T. Chapman (Eds.) (forthcoming) *Restorative Justice from a children's rights perspective*. Den Haag: Eleven International Publishing

References

- Barnes, O.M. (2015). Restorative justice in the criminal justice system: the McDonaldisation of diversionary youth conferencing. Ph.D. thesis, University of Ulster, Jordanstown.
- Braithwaite, J. (2002). Setting standards for restorative justice. *The British Journal of Criminology* 42(3):563–577. <https://doi.org/10.1093/bjc/42.3.563>.
- Gearty, C.A. (2006). *Can human rights survive?* Cambridge: Cambridge University Press.

Haines, K. (2000). Referral orders and youth offender panels: restorative approaches and the new youth justice. In: B. Goldson (ed.) *The new youth justice*, pp. 145–153. Lyme Regis: Russell House.

hooks, b. (1990). *Yearning: race, gender, and cultural politics*. Boston, MA: South End Press.

United Nations (1989). *Convention on the rights of the child*. New York: United Nations.

Questions from almost 50 years of restorative justice in Canada

In my office, I have my Grandad's old chair. It was his storytelling chair. The chair, itself, is rather unassuming. It has light brown colouring, or maybe more like a mix of brown and yellow. Originally it was probably a muddy brown, having faded over time. The back of it looks like an upside-down pleated dress or skirt. The arms are made of wood, stretching out in a partially-open embrace, round knobs at the ends, for gripping, as Grandad would do during the more climactic elements of his stories. When I visited my grandparent's house in the 1980s, I liked to sit in the chair, whenever Grandad wasn't in it, because it was next to a well-stocked candy bowl.



Grandad

Grandad's stories were repetitive. But they were a lifeline, a rhythmic heartbeat of connection, belonging, and love.

When Grandad sat there, upright yet reposed, he would share stories about his experiences: a childhood in Montreal, Canada, being raised by his aunt and uncle as his mother passed away around the time

of his birth, enlisting with the Black Watch during World War II and going overseas to be a part of the Canadian liberation of Holland, meeting my Nana at a dance in Brantford, the hometown of Alexander Graham Bell, the inventor of the telephone, when he was working for the Bell telephone company, tagging cars with pamphlets when he started his own insurance business, and dozens of stories in-between. The narrative arc was similar. Some details to set up what would usually turn out to be a humorous anecdote. During my childhood, each story was new and exciting. When I was a teenager, the stories began to repeat. As a young adult, I'd heard each of the stories many times. Grandad's dementia and Alzheimer's had settled in, to stay. But, so too had the rhythm of his storytelling: his warm-hearted, cheerful presence in my life. In a way, I came to be in his words. Grandad's stories were repetitive. But they were a lifeline, a rhythmic heartbeat of connection, belonging, and love.

Stories are relationships. As we relate to each other through stories, we become. Stories are a gift we give each other for how to be. As we narrate our lives, we become: stories are constitutive (Brown and Augusta-Scott, 2007; Page and Goodman, 2020). When I was a child, I was engrossed by Grandad's stories. Now, as an adult, I know we *are* stories (King, 2008).

* * *

There is a story about restorative justice, that it originated in the mid-1970s in a small town, about 15

minutes from where I live in Canada, called Elmira. Certainly, it is well-known that a young probation officer, Mark Yantzi (who later founded [Community Justice Initiatives](#), a thriving, forward-thinking restorative justice organisation to this day), recommended to a judge that two young people who vandalised a neighbourhood meet with the people who had been impacted, thus giving precedent to responding to harm differently within Canadian law. Since that time restorative justice programmes have proliferated across Canada, from Circles of Support & Accountability to Victim Offender Dialogue to Family Group Decision Making, from youth diversion in minor crimes to dialogue in the aftermath of violent harms, from educational to workplace to prison settings, taking many forms while striving to meet needs and fulfil obligations for accountability. And, as restorative justice practices have multiplied, those doing the work have gained wisdom for how to walk alongside people who have been hurt and those who have caused harm. Really, the story of restorative justice practices is one of relationships, bringing people together in democratic, collaborative processes to work things out — a strengthening of human connections and bonds, the making of stronger communities.

But, centring the Elmira case as an origin story misses, or perhaps dismisses, how a restorative ethos in justice predates the 1970s ...

But, centring the Elmira case as an origin story misses, or perhaps dismisses, how a restorative ethos in justice predates the 1970s, as evidenced by millennia of indigenous ways of being in North America that share some similarities to present day restorative justice practices. The Elmira narrative erases a vital aspect of the relationship between indigenous peoples and settlers in the area now known as Canada. Of course, there is sometimes a nod in restorative justice literature in the direction of the Indigenous roots of restorative justice, but that is all it is, a gesture. Canada itself is a settler, colonial state, a violent imposition on Indigenous Nations (e.g., the land was not empty when settlers arrived), where the primary mechanisms of making indigenous peoples assimilate or disappear, in order to steal lands and resources, have been — and continue to be — through law, policing, and prisons. In fact, the town of Elmira sits on the unceded, traditional indigenous territories of the Anishinaabe, Haudenosaunee, and Neutral peoples. What happens when the story of restorative justice whitewashes indigenous narratives about history and

even justice? I'll return to that question shortly.

Question 1: How does your restorative justice address root causes of harm?

There is a subtle yet seismic shift in Howard Zehr's *Little Book of Restorative Justice*, from the earliest to the latest editions. In fact, it's so subtle, I worry that many in the restorative justice movement have missed it. When Zehr set out to articulate how restorative justice was unfolding in North America in *Changing Lenses* (1990) and the aforementioned little book (2002), he distilled restorative justice down to five guiding questions:

1. Who has been hurt?
2. What are their needs?
3. Whose obligations are these?
4. Who has a stake in this situation?
5. What is the appropriate process to involve stakeholders in an effort to put things right? (Zehr, 2002, p. 38).

However, in the newest version of the Little Book of Restorative Justice, right between questions number four and five is a new question:

6. What are the causes? (Zehr, 2015b, p. 49).

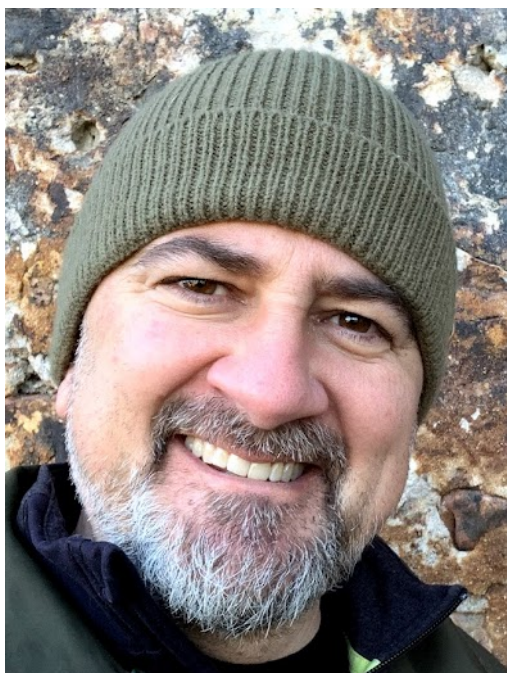
Zehr explains:

The guiding questions of restorative justice can *help us to reframe issues*, to think beyond the confines that legal justice has created for society, and to 'change our lenses' on wrongdoing (2015b, p. 50 emphasis added).

... asking about causes — moves restorative justice beyond responding to singular incidents of harm to addressing patterns or issues behind harms.

A reframing — asking about causes — moves restorative justice beyond responding to singular incidents of harm to addressing patterns or issues behind harms. Organiser and educator, Mariame Kaba (2021), active in the transformative justice movement,

writes that ‘a system that never addresses the why behind a harm never actually contains the harm itself’ (p. 24). Once we have a more fulsome understanding of issues underlying incidents, we can better co-create justice with people and communities.



Judah Oudshoorn

Question 2: How can you make your restorative justice trauma- and equity-informed?

My own work has steered me towards a ‘trauma-informed’ framework that trauma awareness and recovery should be central considerations in restorative justice work, as healing from harm and holding accountable are nearly impossible if trauma is overlooked. When researching for my book about youth justice in Canada, I found that 90% of young people who come in conflict with the law have experienced some form of childhood trauma, such as neglect, sexual abuse or experiences of family violence (Oudshoorn, 2015). A trauma-informed perspective necessitates using an equity-informed lens, because systemic violence, like colonialism and racism, that cause collective traumas, determines who Canadian police target and arrest. It is not so much that people ‘come in conflict with the law,’ but certain identities (e.g., Indigenous, Black, and racialised people) and struggles (e.g., addictions and poverty) are ‘criminalised,’ or made criminal. In Canada, for example,

while only representing 4% of the populations, indigenous peoples are greater than 30% of those living in prisons (Kingsley, 2020).

The literal whitewashing of indigenous narratives about justice by the restorative justice movement has meant that restorative justice has been narrowly imagined in Canada as a programme

The literal whitewashing of indigenous narratives about justice by the restorative justice movement has meant that restorative justice has been narrowly imagined in Canada as a programme, and typically as an extension of criminal punishment apparatuses. For as much talk as there is about restorative justice as a philosophy or a set of principles, the harms that are typically being addressed are those defined by the state as ‘crime,’ which ignores the harms of the state itself (e.g., the mass incarceration of indigenous peoples). Fania Davis (2019) puts it bluntly about restorative justice in *The Little Book of Race and Restorative*,

During its first forty years ... the restorative justice community has historically failed to adopt a racial or social justice stance (pp. 1 & 2).

While restorative justice has emphasised relationships, what we have so often missed are the unequal power relationships and corresponding traumatic impacts that our social systems produce.

While restorative justice has emphasised relationships, what we have so often missed are the unequal power relationships and corresponding traumatic impacts that our social systems produce. Canada punishes indigenous peoples for committing crimes through its legal system, yet the same system of law has been at the heart of most of the oppressions experienced by Indigenous peoples.

Question 3: How does your restorative justice practice create equitable, caring communities?

In some ways, addressing root causes of harm brings us closer to the remarkable work being done in the transformative justice movement. ‘Transformative justice,’ in the words of Johonna Turner (2020)

can ... be understood as a political project for envisioning, creating, and sustaining safe and accountable communities. Yet, it is a project that recognises how dynamics and patterns of domination are also replicated within our relationships (p. 300).

Transformative justice has a twofold agenda: abolish harmful systems of state violence (e.g., policing and prisons), while creating social landscapes that collectivise care (Ben-Moshe, 2020; Kaba, 2021). The transformative justice work of community accountability, while similar to restorative justice, has been fully separate from the criminal punishment system. We might learn from that in restorative justice. Yet, I am not a purest. Reform and abolition likely fit best along a continuum. Sometimes restorative justice programmes need to partner with existing systems however fraught that might be. If that sort of partnership is necessary, we should ask, are programmes resisting or replicating the types of harms being addressed? Liat Ben-Moshe (2020) offers another to think about it:

Reformist reforms are situated in the *status quo*, so that any changes are made within or against this existing framework. Non-reformist reforms imagine a different horizon and are not limited by a discussion of what is possible at present (p. 16).

My point in the article is about power. The power of storytelling to constitute a movement of restorative justice. The power of hierarchical social systems to hold back some of the possibilities of reforms. The power of accountability — that we, too, doing the work of restorative justice in Canada can take responsibility for our shortcomings and invest our efforts towards equitable relationships and caring communities.

- What's your restorative justice origin story?
- Does it account for those most marginalised in your communities?
- Does it disrupt unequal power relationships?
- Does it share ownership of justice with communities over systems?

* * *

Whether it was the first time or the twentieth, my Grandad always told his stories with the same vigour, the same twinkle in his bright blue eyes, and the same head-thrown-back-laugh at his own jokes. One story he often told was about missing some of the fighting during WWII because he got the mumps. The joke was that other soldiers wanted to kiss him to acquire the virus to gain reprieve from the horrors of the frontline. Whether it was the first time or the twentieth, I would listen with the same vitality, returning his gaze with my brown eyes, and laughing enthusiastically when the punchline landed. 'Well ... did you kiss them?' I would ask. He'd chuckle, bellowing, 'you're a character!'

You know, we're all characters. It takes a certain amount of integrity, authenticity, and humility to courageously share our stories in ways that recognise that we are, at times, as much antagonists as protagonists.

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References

- Ben-Moshe, L. (2020). *Decarcerating disability: deinstitutionalization and prison*. Minneapolis: University of Minnesota Press.
- Brown, C. and Augusta-Scott, T. (eds.) (2007). *Narrative therapy | making meaning, making lives*. London: SAGE Publications.
- Davis, F.E. (2019). *The little book of race and restorative justice: black lives, healing, and US social transformation*. New York: Skyhorse Publishing.
- Kaba, M. (2021). *We do this 'til we free us: abolitionist organizing and transforming justice*. Chicago: Haymarket Books.
- King, T. (2008). *The truth about stories: a native narrative*. Minneapolis: University of Minnesota Press.
- Kingsley, M.F. (2020). Indigenous people in Federal Custody surpasses 30 Investigator issues statement and challenge. [Office of the Correctional Investigator](#).
- Oudshoorn, J. (2015). *Trauma-informed youth justice in Canada: a new framework toward a kinder future*. Toronto: Canadian Scholars.

Page, J. and Goodman, P. (2020). Creative disruption: Edward Bunker, carceral habitus, and the criminological value of fiction. *Theoretical Criminology* 20(2):222–240. <https://doi.org/10.1177/1362480618769866>.

Turner, J. (2020). Creating safety for ourselves. In: E.C. Valandra and W.W. Hokšila (eds.) *Colorizing restorative justice: voicing our realities*, chap. 17, pp. 291–321. St Paul, MN: Living Justice Press.

Zehr, H. (1990). *Changing lenses: a new focus for crime and justice*. Scottsdale PA: Herald Press.

Zehr, H. (2002). *The little book of restorative justice*. New York: Skyhorse Publishing.

Zehr, H. (2015b). *The little book of restorative justice: revised and updated*. New York: Skyhorse Publishing.

Interview with David Gustafson

Dave Gustafson has worked in the areas of crime, prisons, victimology, criminology and trauma recovery for over 30 years. He holds a PhD in Criminological sciences from KULeuven, Belgium. Dave’s primary research interests continue to be in the fields of trauma and recovery, the related brain science and the impacts of facilitating therapeutic dialogue between victims and offenders in crimes of severe violence. Most recently, Dave has become involved in researching and developing processes based upon Restorative Justice foundations (values and principles) for dealing with iatrogenic harms, i.e., harms suffered by patients in the health care system at the hands of those whose mandate and oath is to Heal, and to ‘Do no further harm.’ Even during the current pandemic, Dave can often be found training, consulting and facilitating complex cases at the invitation of Indigenous Community leaders across the Canadian North, the sort of engagement he truly prizes.

Since Canada is considered one of the pioneers of the contemporary restorative justice movement — and Dave has been one of the pioneers of restorative justice in general and its implementation after serious crimes in particular for years — we wanted to ask his views on the current state of restorative justice, what his criticisms are and what changes or developments he would like to see.

1. *David, you were one of the first RJ pioneers in developing restorative processes after severe harm — at a time when there was still a lot of scepticism about the suitability of RJ after complex and serious crimes. What led you to consider and offer RJ processes in such cases?*

As they say, ‘Vision is always 20/20 through the retro-scope.’ The history, as I recall it, has probably undergone some revision over the years. However, I would probably have to point to two things:

- a) experience as a trauma clinician in the community, dealing often with very highly traumatised patients; and

- b) observing the process outcomes as a mediator in the early days, first in Elkhart, Indiana under Howard Zehr’s tutelage, then in Langley, BC where we implemented what was one of the first Victim Offender Reconciliation Programmes (VORPs) in Canada.

Even though these VORP cases were relatively less serious (or at least less likely to have involved severe physical violence) the degree of trauma people had suffered and which was ameliorated, time after time, by their face-to-face mediation meetings was instructive and even somewhat astonishing. In fact, those outcomes became not the exception, but almost normative.

That experience led, in turn, to the idea of doing research into whether victims and offenders² might be willing to engage in restorative processes in more serious and often much more violent offences. In 1988, together with one of our [Community Justice Initiatives \(CJI\)](#) staffers, I conducted a research project

in which we asked crime victims and offenders convicted of serious crimes, matched by offence,

- whether they would be willing to meet one another in a safe setting (likely within the prison walls);
- whether they could see such a meeting being therapeutic for them and/or the other and
- what, if any, other benefits they might imagine coming from such an encounter (Gustafson and Smidstra, 1989).

Some respondents nuanced their 'Yes' or 'No' responses, but the findings indicated that 87% of offenders surveyed and 82% of the victims believed that such a process would be beneficial for themselves and for the 'other,' and would participate if such a programme were established.

That piece of research was sufficiently persuasive that the then Commissioner of the Correctional Service of Canada (CSC), Ole Ingstrup, was prepared to have us develop and pilot a Victim Offender Mediation Programme (VOMP) model in Canada's Pacific Region (British Columbia and the Yukon Territory). Thus began the contract for a two-year demonstration project. That was thirty years ago. The programme has been continuously delivered ever since.

Roberts (1995), one of the programme's first research evaluators, reported to the federal government that in his experience of over thirty years of programme evaluation he had never experienced such unanimously and overwhelmingly positive support from respondents. Over the next fifteen years, the findings of a number of evaluations were proving the earliest hypotheses true: the melding of the best of trauma recovery processes and of RJ values, principles and best practices, was producing highly beneficial outcomes for both victims and offenders. The rest, as they say, is history. CSC determined that perhaps victims — and not just offenders — were to some degree their clients, too.



David Gustafson

Largely as a result of those very positive evaluations, CSC expanded the service and in 2004 rolled it out coast-to-coast in Canada under its new moniker, Restorative Opportunities (RO), following the specialised training which we, that is, Sandi Bergen, then my co-director and co-facilitator at CJI, Revd Jamie Scott, a seasoned pioneer and programme developer and myself, conducted for a new cadre of facilitators. Seeing the beneficial outcomes, especially in terms of trauma recovery and resilience for victims and what appears to be clear impact on offender recidivism, has caused most of the early detractors — even some of the most vocal sceptics — to acknowledge that at least for the persons among their constituencies who choose to engage in this process, it has produced outcomes which are truly beneficial.

2. *RJ after complex and sensitive crimes is starting to gain momentum. When you consider your own journey in this area and then look at the current developments, are there issues that worry you when it comes to RJ after serious harm?*

Yes, indeed. I am reminded of one evening, many years ago, when I had just completed a basic St John's Ambulance First Aid Course as a young Royal Canadian Air Force Cadet. As he passed out our certificates, the instructor

quite dramatically pulled a hatchet from his briefcase, brandishing it and holding our certificates high in the air, saying, 'This is a BASIC certificate: it does not qualify you to use your little hatchets and perform open-heart surgery.' Point made: know your limit!

... I am constantly struck by the complexity of the cases referred to us over the years by prison staff and victim serving agencies.

Even after almost four decades (Did I blink? Where does the time go?) of immersion in this field, I am constantly struck by the complexity of the cases referred to us over the years by prison staff and victim serving agencies. Because of those complexities, at the very least, I believe, those facilitating cases involving severe violence should have a thorough grounding in

- the trauma syndromes,
- the impacts of long-term imprisonment,
- Adverse Childhood Experience (ACE) (often a complicating factor in the trauma experience of both victims and offenders) and
- mediation/facilitation skills at an advanced level.

That's for starters.

From the very beginning, our facilitators worked in teams of two: one man, one woman (unless the participants' needs dictated otherwise). I'm still convinced of the merits of co-mediation, for many reasons. Deeply respectful, gentle curiosity, hearts and minds open to what one's programme participants will teach you (they are the experts in their own experience, after all) and the humility required to be a constant student will take you a long way. It doesn't take long to recognise that what you'll be engaged in as a facilitator in these cases may be more akin to specialised open-heart work than you might have imagined. The learning curve is steep and never ends.

3. *One issue that some RJ experts are concerned about, and which was also raised in Tim Chapman's article, is the increasing 'McDonaldisation' of RJ that is occurring in some regions.*

Is this also one of your concerns or what are your thoughts on this issue?

As far as I know, the term the 'McDonaldization of Restorative Justice' (the application of management principles used in the global corporate system to improve efficiency and cost-effectiveness) was coined by Martin Wright in a 1996 article and later used by Mark Umbreit (1999) to refer to the 'industry' of restorative justice in juvenile justice systems. Schweigert (1999), Braithwaite and Strang (2001) and Roche (2003) suggest that restorative justice practice has led, and possibly exceeded, restorative justice theory. It is discussed in some victim-offender mediation programmes in the USA, as well as the effect this has on victims involved.

It is something which has concerned a number of commentators for over twenty-five years and, in its present day expression, is a concern I share. One can either opt for 'Billions Served' or the quality and nutritional value of what is served up — probably not both simultaneously. Part of the difficulty seems to be that RJ programmes, however they are described, are now 'a dime a dozen.'

It has become difficult to describe one's programme helpfully as 'restorative' because RJ has become kind of an Alice-in-Wonderland 'muchness' ...

Some of the proliferation has seen at least some programmes built on different definitions and quite different (and sometimes antithetical) values sets. It has become difficult to describe one's programme helpfully as 'restorative' because RJ has become kind of an Alice-in-Wonderland 'muchness,' to the degree that in describing one's programme there is almost a need to differentiate it from the types of programmes that it is not. For example, within a one hundred kilometre radius of my office, you would find fifteen prisons with programmes where our (CJI's) VOMP/RO model is operational. And, within that geographical compass, there would also be programmes run by community agencies (some very good ones) dealing with referrals limited to just minor criminal offences, and some run under the umbrella of policing authorities which (at least in the earlier days) embraced the notion of shaming

young offenders as the way to correct their behaviour. Many of these 'justice forums' went ahead whether the victims participated or not. Perhaps that could have been described under the rubric of *Disintegrative Shaming*. Each of these programmes might be described as an RJ programme, but (Oops!) we've come to the place where one virtually has to define exactly what is meant by Restorative Justice in your particular case, and where each needs to examine where its practice falls along the spectrum from fully retributive to fully restorative.

... a growing body of RJ research would indicate that its values and principles may have more to offer where the most serious harm has occurred.

Whatever the outcome of that exercise, practices and approaches that tend toward the fully restorative end have a tremendous amount to offer all along the spectrum of human conflict and crime — even to the point of bringing about healing and reconciliation in transitional societies in the aftermath of internecine conflict and crimes against humanity. In fact, a growing body of RJ research would indicate that its values and principles may have more to offer where the most serious harm has occurred. In the meanwhile, by all means, the multiplication of programmes is a good thing, as long as along the entire spectrum their builders have taken the time to dig deep and build well, as opposed to throwing up McDonaldized temporary shelters according to a cost-benefit analysis.

If only we could divert the rivers of money being poured into business as usual — the crime control industry, streaming at least some of that colossal expenditure instead into research, development, training and implementation of best practice RJ models ...

4. *Another area that is always discussed is the level of training and professionalism required for facilitators/mediators and whether they should be professionals or lay people. The 'lay model' still seems to be highly valued in many places. Do you think this model can be maintained given the increasing complexity and severity of the harm being addressed, or do you think changes are needed in this area?*

Because someone is a 'lay' person does not have to mean that they are ignorant, incompetent, unlearned, unwise or unwary. Competencies are the issue, along with self-awareness and knowing one's limits.

For many years through the 1980s and 1990s, we had a good-sized cadre of volunteer mediators at CJI, some who might describe themselves as 'just plain working folks from the community' and some seasoned professionals (one who had held almost every senior post in the Correctional Service of Canada and two or three professional probation officers) all of them having been trained — no matter their credentials — in our model and its processes. At the time, we had a rigorous training regimen, a three level mediator certification programme and on-going inservice training. To have attained Senior Mediator status at CJI was no small thing. Whether professional or lay persons, these mediators were turning out equally remarkable results. The point here is that all of them were highly competent because they were highly trained and well suited to the work.

... not all professionals, even those who might seem best equipped academically, would necessarily make suitable candidates as mediators ...

One of my dearest friends and colleagues, a highly educated and credentialed psychologist, when he discovered that I was working in the serious crime programme with a prisoner convicted of multiple rapes, practically exploded with 'I would gladly cut his head off.' I think he was somewhat surprised at his own vehemence, but it served to indicate to me that not all professionals, even those who might seem best equipped academically, would necessarily make suitable candidates as mediators, capable of withholding judgement and working with 'dual partiality,' equally committed to the well-being of both/all parties. It would be important to the future of the programme that all participants be able to navigate the process and emerge with their heads.

However one comes by it, through academic work or rigorous training, I firmly believe that anyone entering into facilitation of serious criminal offences — whatever their background — needs a thorough grounding in un-

understandings of trauma (that suffered by both victims and offenders). Perhaps one does not necessarily need to mount up professional degrees to equip oneself for this work, but I know that I am immensely grateful for the education that qualified me for my own, and for those of the facilitators who now work with me in our prison based programme or across the nation under the auspices of the CSC. The most seasoned professionals facilitating RO cases in Canada also consult and act as mentors for others. Their counsel is highly prized; they are seen as experienced process guides who contribute to the safe passage of the nation's VOMP/RO programme participants.

5. *My next question is also related to the previous question regarding the need for training. In recent years there has been a slowly growing movement calling for trauma-informed justice systems. Considering that in restorative justice we also work with traumatised people and especially after severe harm often with highly traumatised people, do you think this is an area that can contribute to the development of RJ practices after severe harm? Is there a need for more training in this area, or is restorative justice inherently trauma-informed?*

I don't think that RJ is inherently trauma-informed.

I don't think that RJ is inherently trauma-informed. But, if one plumbs the depths of the values and principles of RJ, and consistently adheres to them, one's practice might have a great deal in common with Trauma Informed Care (TIC).

It is interesting to observe how the 'watchwords' of today, such as Trauma Informed Care, are eclipsed or replaced by the new understandings of tomorrow. For example, some folks in the trauma and recovery field are now suggesting that while TIC has a great deal to recommend it, Healing Centred Engagement (HCE) really ought to be what one is engaged in and what any of us committed to healing would want to aspire to. Is it just semantics?

Almost from the beginning of the history of developments in Canada now thought of as 'restorative', some of the pioneering practitioners were suggesting what was then a radical

notion, i.e., that healing ought to head the list as a primary objective. For me, as a clinician specialising in trauma recovery and resilience, this not only rang true, it began to fundamentally shape our practice and the training curriculum my colleagues and I were writing. Many years later, while doing a literature review as part of publishing my own research, I discovered the German language expression '*heilende Gerechtigkeit*' (lit., 'healing justice') which Weitekamp and Parmentier (2016, p. 145) concluded by clearly advocating:

... for the interpretation of restorative justice in terms of healing justice. In our view, this terminological substitution would make utmost sense, not only for historical reasons ... but also for conceptual ones as 'healing justice' explains in a more convincing and tangible way what its objectives and processes in the context of conflict resolution stand for. We are of course aware that the term 'healing justice' may generate substantive and substantial criticism from various sides ... In our view, however, healing justice cannot be limited to focusing on emotional harm and psychological redress, but is bound to address all types of harm (physical, material, emotional etc.) inflicted on all stakeholders involved (victims, offenders, community, society). Hence it is far broader concept than previously understood and it is likely to generate many new ways of thinking about dealing with these multiple dimensions. As a result, we submit that the future of healing justice approaches looks quite interesting and even promising.

6. *What would the ideal implementation of RJ look like to you? What changes do we need to consider in our practice to truly meet the needs of victims, offenders and their communities (rather than our own or the system's)?*

The ideal implementation for me would look very much like the one envisaged by Weitekamp and Parmentier (2016). Referrals would be 'triaged,' with co-mediators trained

and equipped to handle the issues presenting in that case along the spectrum from less serious young offender cases and relatively minor property offences to cases involving traumatic wounding and post traumatic symptom perseveration for the victims/survivors who had suffered them. Facilitators in these cases would be competent to do the case preparation and facilitation work with such care that triggering or re-traumatising the survivor would be highly unlikely. They would eschew judgement, being equally partial to the offenders and their healing and ultimate well-being, recognising that ‘judgement kills compassion.’

At the far end of the spectrum would be practitioners who would constitute teams as needed for work in transitional societies: experts in international law, alongside care givers willing to sit, for example, on the grass in a Rwandan Gacaca court for days together with trusted indigenous leaders bringing together the former combatants. The team might include trauma recovery therapists, perhaps, if the situation called for the inclusion of professionals at that level.

The triage intake process might identify other sorts of harms crying out to be addressed: racism, misogyny, violence of any sort brewing or having broken out . . .

And, as in the vision they describe, one ‘interesting and promising’ indeed, cases would not be limited to those that pass the definitional bar as crimes or even war crimes. The triage intake process might identify other sorts of harms crying out to be addressed: racism, misogyny, violence of any sort brewing or having broken out; cases involving violence against nature and environmental degradation.

Perhaps this is a vision entirely too utopian, but our reach must exceed our grasp as we vision new realities. There is room for dreamers, and those who bear the values that can call us to a quest for upward nobility, for entire societies, for nations and the in-between spaces across borders.

Respect, empathy, mercy, compassion, confession, absolution, forgiveness, love, with just such foolish things as these the peacemakers can and do restore what is broken. Any system

that holds that punishment, that violence, will cure violence rather than beget more of the same needs to be challenged. There is much to accomplish to move the responses to conflict, crime and wrongdoing from models based in retribution to those which truly — and demonstrably — heal and restore. Maybe we’ll discover what Paulo Coelho (2014) asserts to be true: ‘When a person really desires something, all the universe conspires to help that person to realize his dream.’

‘When a person really desires something, all the universe conspires to help that person to realize his dream.’

As one of my chaplain friends asks, ‘If this kind of healing is possible, is it moral for a country to say it attempts to do justice for its citizens when it denies them access to such a resource? When the overwhelming majority of the budgets of its criminal justice and corrections systems are consumed in dealing with only one side of the justice equation: the offender--and even that without demonstrably effective, equitable, just or healing outcomes?’

As T.S. Eliot (1934) would have it, there is ‘much to cast down, much to build, much to restore.’

Thank you very much, David, for this profound and rich interview that offers many points for reflection. Thank you so much for taking the time in the midst of a busy schedule to give us insight into your extensive, decades-long experience.

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Notes

²A caveat concerning the use of the terms ‘victim’ and ‘offender’ as I understand and have written about the prolonged and profoundly negative impacts of labelling. I choose to use these terms because we are dealing with something other than minor ‘harmdoers’ and ‘those who’ve suffered the harms.’ We are dealing with serious criminal offences and with a litany of terms used by the key actors in the various systems. At a policing or investigatory stage one might hear ‘person of interest,’ ‘suspect’ or ‘alleged perpetrator’; at a prosecutorial level ‘the accused’ (until guilt is determined), then ‘the defendant;’ if sentenced and incarcerated ‘convict,’ ‘inmate,’ ‘prisoner’; when released: ‘parolee’ or ‘probationer.’

As well, most ‘harm doers’ I work with have been convicted of the serious crimes for which they were charged, or have pleaded guilty. They do not want to be called ‘inmates’ as a rule, and will be glad to tell you why. They tend to identify themselves as ‘prisoners’, do not seem to balk at ‘offenders’ and recognise that they now have criminal records (as opposed to a record of ‘harms done and for which I accept responsibility’).

On the victim side, individuals may actually want and need the legal designation ‘victim’ for a variety of purposes. In Canada the term conveys rights under the 2015 Canadian Victims Bill of Rights or legal standing in criminal and civil courts. The designation might also be needed for insurance purposes or to qualify for victims’ compensation or for disability claims. Criminal trauma survivors seeking such remedies, with whom I also deal, choose, at least for a time, to identify as ‘victims.’

Some individuals, on the other hand, find the term ‘victim’ pejorative or diminishing and prefer terms that are more empowering. Respondents in my doctoral research (Gustafson, 2018) described their Victim Offender Mediation programme (VOMP) experience as having enabled significant trauma recovery for them ... setting them ‘Free at last [and] enabling them to move from a view of themselves as ‘victims’ to ‘survivors’ or ‘thrivers.’

Braithwaite, J. and Strang, H. (2001). Introduction: Restorative justice and civil society. In: H. Strang and J. Braithwaite (eds.) *Restorative justice and civil society*, chap. 1, pp. 1–13. Cambridge: Cambridge University Press.

Coelho, P. (2014). *The Alchemist: Translated by Alan R. Clarke 25th Anniversary Edition*. San Francisco: HarperOne.

Eliot, T.S. (1934). *The Rock: A pageant play ... Book of words*. London: Faber & Faber.

Gustafson, D.L. and Smidstra, H. (1989). Victim offender reconciliation in serious crime: a report on the feasibility study undertaken for the Ministry of the Solicitor General (Canada). Unpublished report.

Roberts, T. (1995). *Evaluation of the Victim Offender Mediation Project, Langley B.C.: Final Report*. Victoria, BC: Focus Consultants.

Roche, D. (2003). *Accountability in restorative justice*. Oxford: Oxford University Press.

Schweigert, F.J. (1999). Learning the common good: principles of community-based moral education in restorative justice. *Journal of Moral Education* 28(2):163–183.

Umbreit, M.S. (1999). Avoiding the marginalization and “McDonaldization” of victim-offender mediation: a case study in moving toward the mainstream. In: G. Bazemore and L. Walgrave (eds.) *Restorative juvenile justice: repairing the harm of youth crime*, pp. 213–234. Monsey, NY: Criminal Justice Press.

Weitekamp, E.G.M. and Parmentier, S. (2016). Restorative justice as healing justice: looking back to the future of the concept. *Restorative Justice: An International Journal* 4(2):141–147. <https://doi.org/10.1080/20504721.2016.1197517>.

Calendar

EFRJ Online conference 5 November 2021 9.00–17.30 CEST *Measuring, researching, narrating: discussing the (social) impact of restorative justice* Further details from the [EFRJ](#).

EFRJ Online training course 10 and 12 November 2021 14.00–18.00 CET *Restorative Justice for Children* Further details from the [EFRJ](#).

Restorative Justice Week 21–28 November 2021 *Protect and Empower the Person Harmed* Fur-

ther details from the [EFRJ](#).

EFRJ and the National Association of Community and Restorative Justice (NACRJ) 13 December 2021 17.30–19.00 CET Online *Restorative School Culture* Further details from the [EFRJ](#).

EFRJ Conference 23–25 June 2022 Conservatorio Luigi Canepa Sassari, Sassari, Sardinia, Italy. More information from the [EFRJ](#).

EFRJ Member Events

EFRJ members organise many more events at the local level. If you wish to keep posted, subscribe to our bi-monthly [Newsflash](#), which includes news on upcoming events, new publications, policy initiatives, call for projects and much more. The archive of past newsflashes is available on the [EFRJ website](#).

Call for submissions

Articles

Each edition we will feature a review of the field of restorative justice, reflections on policy developments and research findings/project outcomes. Please consider sharing your perspective with colleagues.

Book reviews

We very much welcome reviews of books and articles from our membership. If you have published a book and would like to submit it for review, please send it to the [Secretariat](#).

Events

Please let us know about upcoming restorative justice related conferences and events. We are happy to share this information via the [Newsflash](#).

Not an EFRJ member yet?

Join forces with other RJ professionals throughout Europe and beyond and sign up via [our website](#). (If you are a member but have not yet renewed for 2021, you can use the same link.) The process only takes five minutes. You can also email the [Secretariat](#) or use the address below.



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The views presented in this Newsletter are the views of the authors and do not necessarily represent the views of the EFRJ.

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