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**What does research tell us about working restoratively
with complexity?**

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Today...

1. What do we mean by sensitive and complex?
2. Operationalizing complex definitions
3. What does the evidence say?



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Questions:

1. What do we mean by sensitive and complex?

- I. What do you understand by 'serious and complex'?
- II. Does your organization have a definition for serious and complex?
- III. Do you think that definition captures what it needs to?



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2. Operationalizing complex definitions

Restorative Justice Council (2020, p6)

Sensitive and complex case – any case involving:

- Actual, or threats of, serious or sexual violence
- Vulnerable participants for example, vulnerable because of physical disability, age or mental impairment
- Domestic abuse
- Harm caused over a substantial period of time (over three years)
- More than three perpetrators and/or more than three victims
- Risk of continuing harm or intention to cause further harm
- Multiple agencies

ACPO (2011)

“Risks - vulnerability / sensitivity of the victim owing to their personal circumstances or the specifics of the case”

CoP (2022)

“**Level three:** will usually occur post-sentence but can also be used pre-sentence and can take place in prison. This may be for complex and sensitive cases where the offenders are prolific and must be monitored. All levels require facilitators that are experienced in RJ.”

HMPPS (2022)

Referrals outside the target criteria

- 4.4 Whilst the definitions of a sensitive or complex case can vary between restorative justice providers, Community Offender Managers/probation practitioners must obtain managerial oversight prior to signposting, referring or sharing information with a restorative justice service provider when they have identified or assessed the case as having any of the following factors:
- sexual violence or abuse
 - domestic abuse or intimate partner violence
 - victim is a child
 - hate or extremism (TACT)
 - loss of life as a result of the offence
 - organised crime group
 - limited access/high profile
 - management at MAPPA Level 2 or 3
 - concern about a specific vulnerability of anyone likely to be involved in the process
- 4.5 For all sensitive and complex cases, Community Offender Managers/probation practitioners (with the endorsement of their line manager) must also apply to HMPPS re:hub so that if appropriate, a restorative justice approval panel can be convened and a decision reached on suitability before proceeding to signpost, refer or share information with a restorative justice service provider. Further guidance on the role of re:hub can be found at 6.16 and information about restorative justice approval panels at 6.17.



Key Recommendations

- 7. End to blanket bans.** *PCCs should remove any blanket bans on funding restorative justice for certain offence types, instead they should ensure that there are specialist staff trained for serious and complex cases available to assess the risks associated with a particular type of offence or additional need. This should be underpinned by a robust organisational (or ideally a national) policy that provides referring agencies and potential service users with a clear explanation as to why a case cannot be progressed.*



What is common from this?

- That these definitions are typically:
 - Associated with certain 'types' of risk
 - Often made as decisions outside of the control of RJ practitioners

Therefore, questions remain over who is **gatekeeping** practice

- To 'do no further harm' there are some circumstances that require:
 - additional knowledge
 - additional caution
 - additional precautions

In part, as there are certain types of **power** involved that are more complex



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The evidence is clear that RJ/RP can work in a wide range of different and complex circumstances

3.

What does the evidence say?

Two examples of work I've been involved with:

- I. Post-conflict Sierra Leone
- II. With VAWG

I. Sierra Leone

Population: 7.65 million (WB, 2018).

Life Expectancy at birth: 54.31 (WB, 2018).

GNI/capita: US\$490 (WB, 2018).

Human Development Index: 0.438 (UNDP, 2018).
(181 out of 189 countries).

Civil War 1991-2002.

Ebola epidemic 2014-2015.



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Civil War 1991-2002

- 10,000 - 15,000 children were abducted
- 30 - 40% were females subjected to rape, forced marriages
- Often drugged, forced to commit murder or atrocities against relatives or neighbours
- 27,000 people disabled through maiming or amputation
- Adults and children forced into diamond mining labour
- +1 million people displaced from their homes
- >50,000 people killed



Fambul Tok

‘Special Court’ (UN backed)

National courts

Truth and Reconciliation process



Fambul Tok



A restorative practice, based on restoring dignity, and making communication between the community and individual victims or perpetrators possible.’

- mediation between victims, perpetrators, communities
- ‘confession’ of victim and perpetrator in front of community members at a large bonfire



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Reconciliation work

Community mediators

Peace mothers

Ebola prevention

Peoples Planning Process



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See: Fambultok (2023); Lynch et al (2020);
Hobson et al (2022)



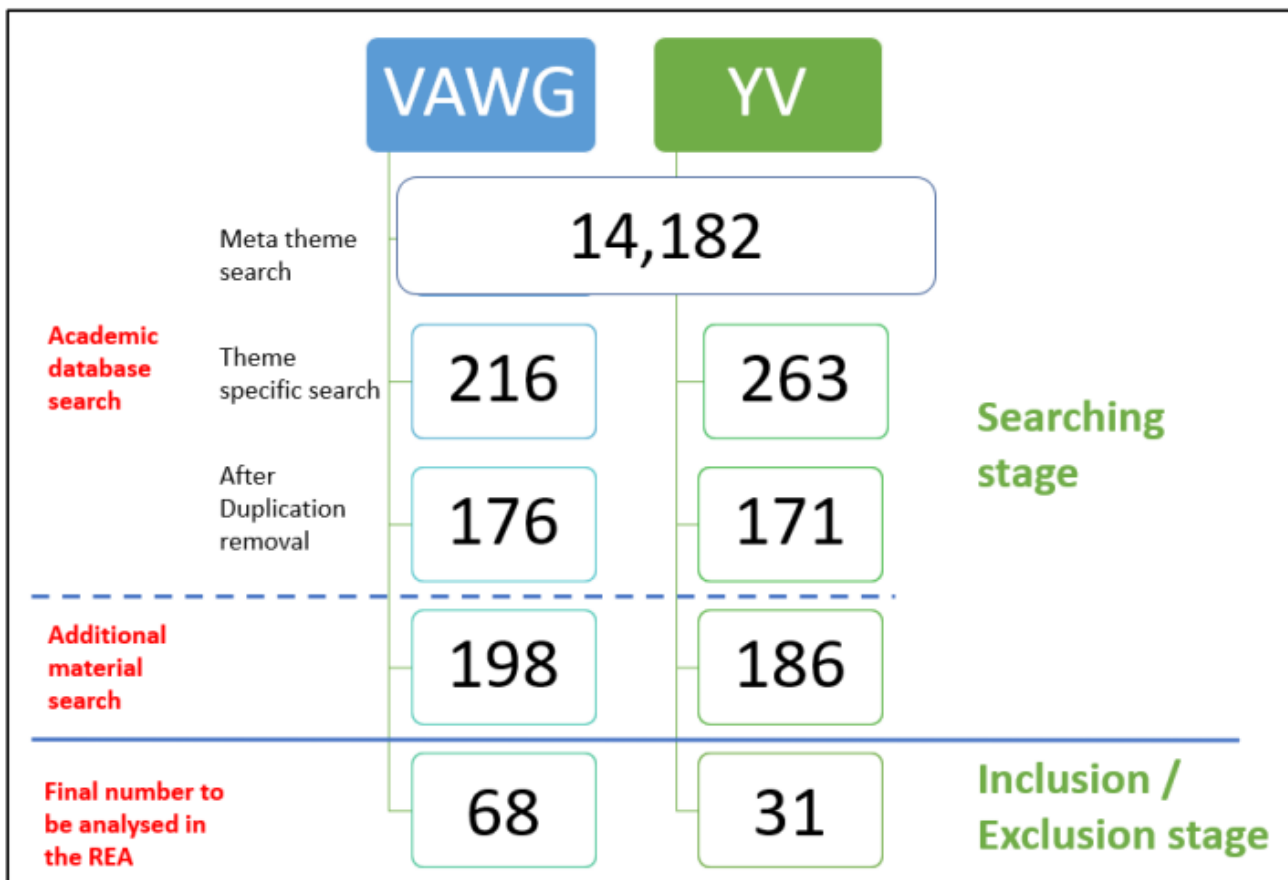
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RJ/RP and war: Takeaway points

- War damages everything. So reconciliation is often about much broader issues – **context** is key.
- There must be '**space**' for restorative work (social, political, physical, economic)
- The importance of understanding the issues and the ways in which they shape **power** between people, and between people and the state



II. VAWG



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Metropolitan Police Service restorative justice policy consultation report

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See: Hobson et al (2022b)



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Opportunities

- Empowerment for victims
- Impacts offender's future behaviour
- Increases community engagement in prevention
 - Feed into culturally sensitive discussion
- Complimentary to court system

Challenges

- Need to manage safety
- Implementation challenges
- Overt state control might mean loss of 'voluntaryism'

However ... there is a big distinction to be made between Sexual Violence and Domestic Violence



Sexual Violence

The use of RJ in this context is more established than in other types of serious and complex cases and practitioners are ahead of policy makers and academics in this area:

- Keenan and Zinsstag, 2019 found 40% of practitioners were using RJ for 10 years; 60% for 5 years
- In some countries there are established practices, for example, Denmark, Norway, Netherlands, and Belgium – although approaches differ between jurisdictions.
- This includes CSE (Denmark).
- In the UK and Ireland, we are still questioning if we should be doing this kind of restorative work.

Domestic Violence

DV often involves SV, but for DV the most important thing is not prosecution, it is getting safety and protection. Consequently, different considerations should be applied.

- DV is not about conflict, it is about abuse / violence / power
- Consequently, there is often an enduring risk (weaponizing children from past and current relationships; weaponizing the RJ process; increased risk of femicide/familicide).
- The purpose and language of RJ needs to reflect this. RJ cannot be about reconciliation, it is about justice for victims and accountability for offenders.
- Perpetrator programmes are not as developed in DV as SV (and problematic).
- The danger of **Coercive Control**.



RJ and SV in practice: knowledge and use of different approaches

**Restorative
Justice as a
broad church**

- **Face-to-face (direct)**
- **Non face-to-face 'contact' (indirect)**
- **Potentially overlapping processes**
- **Discrete processes**



RJ and SV in practice: engaging expert knowledge



How do we access expert knowledge?

Training (but is this enough? Who gets trained and in what?)

Is there enough awareness of the *lack* of knowledge?

In the meantime, the importance of partnership case-working



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RJ and SV in practice: Takeaway points

- That we don't always understand / acknowledge the complexities of **power** – and if so, it can be very hard to 'flatten the power' in a restorative process.
- The importance of building knowledge – and in the meantime working with those that have it.
- What about other examples of where power is not always understood / acknowledged?
 - *Racism*
 - *Sexism*
 - *Gender-based violence*





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Take away points

- **Definitions of ‘serious and complex’ can often be about **gatekeeping** processes (sometimes with good reason)**
- Although there is no unfired definition, are we often talking circumstances with significant **power** imbalances or challenges?
- **The evidence shows that RJ/RP can be **effective and safe** across a range of ‘complex and sensitive’ contexts**
- The importance of understanding the **context**
- **The importance of understanding the nature and role of **power****
- The importance of **expert knowledge, good practice, suitable training, and expert partnerships**

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