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TRYJUSTICE Network

6th & 7th June 2024



TRYJUSTICE
TRANSDISCIPLINARY
RESEARCH FOR
YOUTH JUSTICE

Transdisciplinary Topic Issue 2 –

Restorative Justice Dr Jon Hobson



- 1. What is restorative justice?**
- 2. Where is restorative justice being used?**
- 3. Restorative justice and young people?**
- 4. Restorative Justice and Schools**
- 5. Restorative Justice and social work**

Dr Jon Hobson (Uni of Gloucestershire / Cardiff Met Uni)

Tom Procter-Legg (Oxford)

Ben Fisk (Uni of Gloucestershire)

1. What is restorative justice?

- An approach to justice that focuses on repairing the harm caused by criminal (or problem) behaviour through inclusive processes that engages all stakeholders. It emphasises accountability, making amends, and facilitating dialogue between victims, offenders, and the community. The main principles include:
 - **Voluntariness:** Participation in restorative processes should be voluntary.
 - **Inclusivity:** All affected parties should have the opportunity to participate.
 - **Accountability:** Offenders must take responsibility for their actions.
 - **Reparation:** Efforts should be made to repair the harm caused.


Re-integrative not dis-integrative (cf. Braithwaite)



Punitive Justice	Restorative Justice	Restorative Practice
<p>Crime is a violation of the law and the state</p> <p>Justice requires the state to determine blame (guilt) and impose punishment</p>	<p>Crime is a violation of people and relationships</p> <p>Justice involves victims, offenders, and community members coming together to put things right (as well as the law in many cases!)</p>	<p>Harm is a violation of people and relationships.</p> <p>Violations can be prevented by supporting key stakeholders to build social capital strengthen community and managing conflict.</p>

Continuum of approaches

Restorative
Justice as a
broad church

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

2. Where is RJ being used?

- **New Zealand:** a 'pioneer' in restorative justice, particularly in its **youth justice** system - The Family Group Conferences (FGCs) were established under the Children, Young Persons, and Their Families Act 1989. RJ further embedded in various legislation, including the Sentencing Act 2002 and the Victims' Rights Act 2002
- **Canada:** Integrated RJ into its criminal justice system through community justice forums and victim-offender mediation programs. The Canadian model emphasises community involvement and healing. Programs like the Aboriginal Justice Strategy and the use of **restorative justice in schools** and prisons are notable examples .
- **Norway:** konfliktråd (National Mediation Service) handles both civil and criminal cases - particularly noted for its **voluntary restorative youth sanctions**.
- **Australia:** Extensively used in the **youth justice system** with programs like the Youth Justice Conferencing in New South Wales.

- **South Africa:** (TRC) utilised restorative justice principles focused on truth-telling, reparations, and the rehabilitation of victims and offenders. Continue to be used in various community justice initiatives .
- **Ireland:** Integrated restorative justice into its criminal justice system, influenced by the success in Northern Ireland. The Restorative Justice Services offer mediation and conferencing for both youth and adult offenders.
- **Belgium:** Well-established & structured approach integrating restorative practices within legal framework. Prosecutors are required to inform restorative justice services about cases, victims receive letters at each stage of the court process explaining how they can access restorative justice.
- **Indonesia:** Indonesia uses restorative justice to handle minor criminal cases through community mediation and restorative justice houses. This approach aims to restore peace and harmony in society and reduce the burden on the judicial system. It focuses on quick, simple, and low-cost resolutions, with a significant emphasis on reconciliation and the rehabilitation of offenders.

- **Sierra Leone:** uses restorative justice principles in its post-conflict reconciliation efforts, particularly through community-based restorative justice programs – build from the models in Rwanda/SA.
- **Finland:** The Criminal Mediation Act 2005 allows for mediation between victims and offenders, particularly in minor criminal cases and certain serious offences. Employs restorative justice through voluntary mediation services managed by municipalities.
- **Brazil:** Integrated restorative justice into its **juvenile justice system** and community justice centres through programs like the National Youth Mediation Service. Focus on reconciliation between young offenders and victims with aim to reduce recidivism address the root causes of criminal behaviour .
- **Japan:** uses restorative justice primarily in the context of **juvenile justice**, with established victim-offender reconciliation programs and community involvement initiatives. Often guided by traditional cultural values emphasising apology, forgiveness, and community harmony .

- **Germany:** Incorporates restorative justice through victim-offender mediation (Täter-Opfer-Ausgleich) used at various stages of the criminal justice process, from pre-trial to post-conviction. It aims to achieve reconciliation and reparation, reducing the adversarial nature of traditional criminal proceedings .
- **Austria:** well-developed restorative justice system, especially in **juvenile justice**. Uses victim-offender mediation extensively and has integrated restorative practices into its probation services. Austrian law supports restorative justice as a means to divert cases from the traditional court system .
- **South Korea:** Implemented restorative justice programs within its **juvenile justice** system. Programs focus on mediation and reconciliation with the goal of repairing harm and facilitating the offender's reintegration into society .
- **The Netherlands:** Employs restorative justice through mediation services offered at different stages of the criminal justice process with specialised programs for both **juvenile** and adult offenders, aiming to resolve conflicts, repair harm, and reduce recidivism rates .



- **Philippines:** Uses restorative justice in both **juvenile** and adult criminal justice systems. The Juvenile Justice and Welfare Act of 2006 emphasises restorative practices for young offenders, aiming to rehabilitate and reintegrate.
- **Uganda:** Has adopted restorative justice practices within its **juvenile justice** system and community justice initiatives. Programs focus on mediation, reconciliation, and community service, aiming to address the underlying causes of crime and promote social cohesion .
- **Croatia:** Peer mediation programs in Croatian **schools** involve students in resolving conflicts through restorative approaches. These programs aim to tackle youth violence by promoting dialogue and cooperation among students, supported by multidisciplinary cooperation with civil society and local communities .
- **United States:** Restorative justice is applied through various programs at the state and local levels, including VoM, FGC, and circles. **Schools, juvenile justice** systems, and community organizations often use restorative practices to address conflicts and reduce recidivism .

In Europe....

EU Victims' Rights Directive (2012/29/EU) establishes minimum standards on the rights, support, and protection of victims of crime within the EU. It explicitly mentions restorative justice as a tool for supporting victims, ensuring they have access to restorative justice services.

- Victims must be informed about their rights to restorative justice.
- Restorative justice services should be safe, confidential, and conducted with the consent of both parties .

Council of Europe Recommendation CM/Rec(2018)8 encourages member states to develop and use restorative justice within their criminal justice systems. It aims to make restorative justice accessible at all stages of the criminal justice process and for all types of offences.

- Development of standards for restorative justice in criminal procedures.
- Encouragement of innovative restorative approaches by judicial authorities and restorative justice agencies.
- Emphasis on accessibility, safe practice, and cultural change within criminal justice systems.

Venice Declaration (2021) further supports the integration of restorative justice practices in member states' criminal justice systems. It builds on the 2018 recommendation by providing more specific guidance and support.

- Encourages wide implementation of restorative justice principles and methods as a complement or alternative to criminal proceedings.
- Emphasizes the importance of restorative justice in desistance from crime, offender reintegration, and victim recovery.
- Calls for restorative justice to be included in the training curricula of legal professionals, including judges, lawyers, prosecutors, social workers, police, and prison staff.

EU Strategy on Victims' Rights (2020-2025) outlines a comprehensive approach to ensure that victims' rights are respected and fulfilled throughout the EU. It recognizes the role of restorative justice in empowering victims and promoting their recovery.

- Promotes the use of restorative justice processes to help victims.
- Supports the improvement of knowledge about restorative justice among practitioners.
- Encourages high-quality training for restorative justice practitioners.

European Union Agency for Fundamental Rights (FRA) The FRA provides independent, evidence-based advice on fundamental rights, including the use of restorative justice.

- Offers recommendations to ensure that restorative justice processes respect fundamental rights
- Collects data on the implementation and impact of restorative justice across member states.

Council of Europe's Guidelines on Child-Friendly Justice (2010) aim to ensure that justice systems are accessible, age-appropriate, and respectful of the rights of children.

- Encourages the use of restorative justice approaches specifically tailored to children and young people.
- Emphasizes the need for children's participation in justice processes in a manner that protects their rights and well-being.

European Commission's Action Plan on Restorative Justice (2018-2021) aims to enhance the use of restorative justice across EU member states by providing guidance and support for the development of restorative justice programs.

- Encouraging member states to implement restorative justice practices in both juvenile and adult criminal justice systems.
- Providing funding and resources for restorative justice projects and research.
- Promoting cross-border cooperation and the sharing of best practices among member states.

In the UK....

Code of Practice for Victims of Crime in England and Wales (VCOP) - provides a right for all victims to receive information about restorative justice. Non-statutory code but is essential in guiding how restorative justice information is provided to victims.

Ministry of Justice and the Home Office Guidelines: to support the implementation of restorative justice, encouraging multi-agency cooperation and the standardisation of information-sharing practices. These guidelines aim to ensure that victims are consistently informed about restorative justice options throughout the criminal justice process.

Local Police and Crime Commissioners (PCCs): responsible for commissioning victim services, including restorative justice. They play a crucial role in ensuring that victims in their jurisdictions are informed about the availability of restorative justice services. The level of service provision can vary significantly between different areas, leading to what has been described as a 'postcode lottery' for victims.

Youth Justice and Criminal Evidence Act 1999: This Act established Youth Offending Teams (YOTs), which are required to incorporate restorative justice principles into their work. This includes informing victims about restorative justice options and involving them in the restorative process where appropriate.

APPG Phase 1



Restorative Justice APPG Inquiry into
Restorative Practices in 2021/2022

1. Registration of
commissioned
services

2. Standardise the
sharing of information

3. Improving quality
through effective
monitoring and
evaluation

4. Publication of a
new Action Plan

5. Reviewing ring-
fenced funding for RJ
practices

6. Explore automatic
rights for victims
through the Victim's
Law

7. End to blanket bans

8. More and better
communications.

9. Government
Minister with specific
responsibility for RJ

See the reports at <https://rjappg.co.uk/>

3. Restorative justice and young people

Benefits of Restorative Justice

1. **Reduction in Recidivism:** associated with lower recidivism rates compared to traditional court sentences. For example, in cases of youth sexual assault, restorative justice participants showed a recidivism rate of 43%, compared to 56% for those who received community service sentences.
2. **Victim Empowerment and Satisfaction:** Victims involved in restorative justice processes reported higher levels of empowerment, improved feelings of self-worth, better communication skills, and greater awareness of personal strengths.



3. **Positive Impact on Offenders:** Young offenders who participated in programs were more likely to admit responsibility for their actions and felt a stronger sense of guilt and concern for the harm caused. Sometimes described as process of "re-sensitisation"

4. **Holistic Approach:** a holistic approach to addressing youth violence by promoting peer leadership, accountability, ownership, and civic engagement. It facilitates building positive relationships between young people, police, staff, teachers, and community members through open communication and conflict resolution training.

The
Government
commissioned
Shapland reports
(2002 & 2007)
found that restorative
justice has an



Effective Strategies:

1. **Multi-Agency Cooperation:** Successful programs often involve Whole-system approaches with collaboration between various agencies, including the police, social services, schools, and community organizations.
2. **Integration into Youth Offending Teams (YOTs):** Youth Offending Teams (YOTs) have restorative principles embedded in practice, ensuring that community sentences and interventions focus on rehabilitation and reparation. These teams have been effective in reducing reoffending rates and supporting young offenders in their reintegration into society.
3. **Specialized Programs for Serious Offences:** Restorative justice has been particularly effective in addressing serious offences, including harmful sexual behaviours (HSB). Programs that involve collaboration between restorative justice practitioners, child psychologists, and social workers have shown significant benefits in improving outcomes for both victims and offenders.



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Challenges in Implementation

- 1. Professional Scepticism and Resistance:** There is resistance from some criminal justice professionals and victim advocacy groups, which can hinder the successful implementation of restorative justice programs. Overcoming this scepticism requires better training and awareness of the benefits of restorative justice.
- 2. Resource and Capacity Issues:** Insufficient staffing, lack of resources, and slow referrals can impede the delivery of restorative justice services. Ensuring adequate funding and support for these programs is essential for their sustainability and effectiveness.
- 3. Structural and Socio-Economic Factors:** Addressing the underlying socio-economic factors contributing to youth violence is crucial for the success of restorative justice. This requires a coordinated effort involving multiple agencies and community organizations.



Restorative Practice in Education

Thomas Procter-Legg



“Restorative justice (RJ) is a broad term that encompasses an array of non-punitive, relationship-centered approaches for addressing and avoiding harm” (Darling-Hammond et al. 2020)

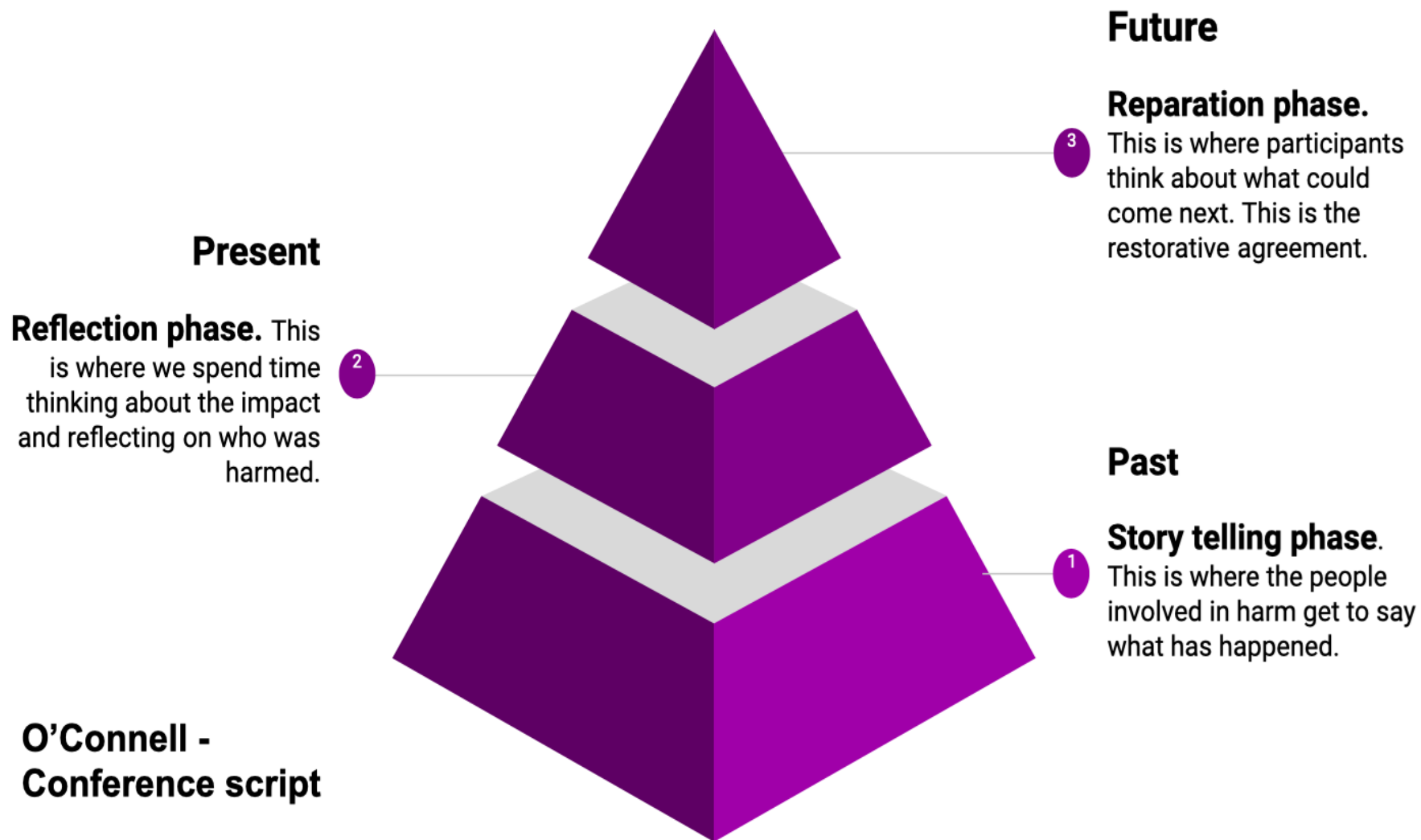


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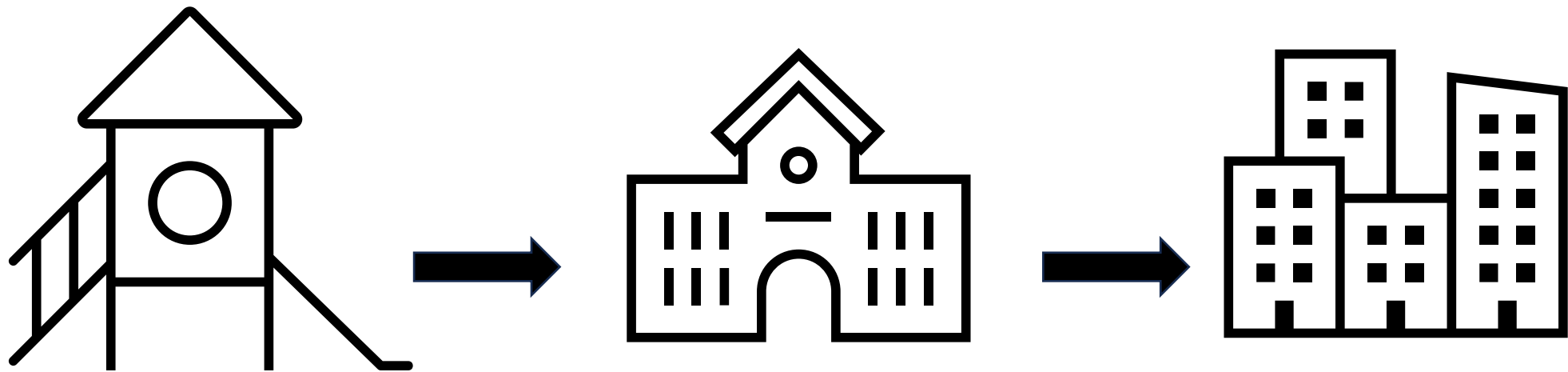
Core Values (Hopkins, 1999)

1. Everyone has a unique perspective
2. Our thoughts and feelings influence how we act
3. Everything we do has an affect on others around us
4. Physical and emotional needs must be met for us to function at our best.
5. The ownership of decision making and problem solving develops pro social skills and strengthens connections between people



Adapted from O'Connell
(2013)

**O'Connell -
Conference script**



Problems with progressing a divergent philosophy

- **A shift in culture/staff mindsets** (Cavanagh et al., [2014](#))
- **Improved school climate** (Hantzopolous, [2013](#); McCluskey, Lloyd, Kane et al., [2008](#))
- **Social, emotional, and behavioural development** (Ingraham et al., [2016](#); Kavaney & Drewery, [2011](#); Schumacher, [2014](#))
- **Reductions in exclusions** (e.g., Anyon et al., [2014](#), 2016; Boulton & Mirsky, [2006](#))

Impact

- Improved theory of mind
- Increased problem-solving skills
- Significant reduction in dysregulation of young people
- Improved staff wellbeing, retention and recruitment
- Improved sense of self
- Improved relationships with parents

5. Restorative justice/practice in social work

THE FAMILY GROUP CONFERENCE PROCESS

1

THE REFERRAL

The process starts by a family being referred to a family group conference service. The person who makes the referral is the 'referrer'. They will usually know and be working with the child or family. This could be a social worker, teacher or health visitor for example.

3

PREPARATION

- EIGHT STEPS

1. Initial preparation
2. Agreement for the family group conference to be held
3. Involving the child/young person
4. Agreeing who is invited to the family group conference
5. Practical arrangements
6. Meeting with invited family members and friends
7. Advocates for the young person or adults who would benefit from additional support
8. Information sharing by practitioners ahead of the family group conference

2

INDEPENDENT COORDINATOR APPOINTED

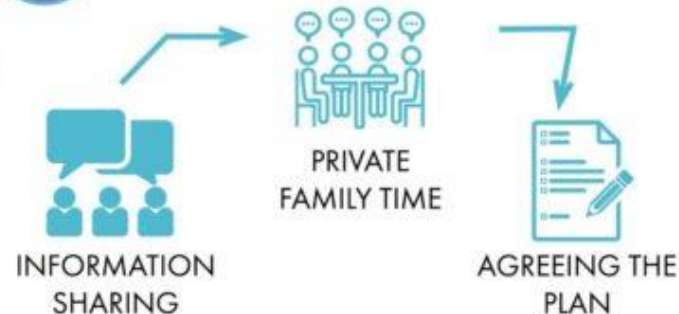
An independent coordinator is then appointed. Their job is to help families plan for their family group conference. They help the family to think about the plans and decisions that need to be made. They are neutral. This means that the coordinator will:

- Not influence a family to make a particular decision
- Be independent from any social worker from children's services that may be working with a family.

4

THE CONFERENCE

- THREE STAGES





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Establishing a Transdisciplinary Framework